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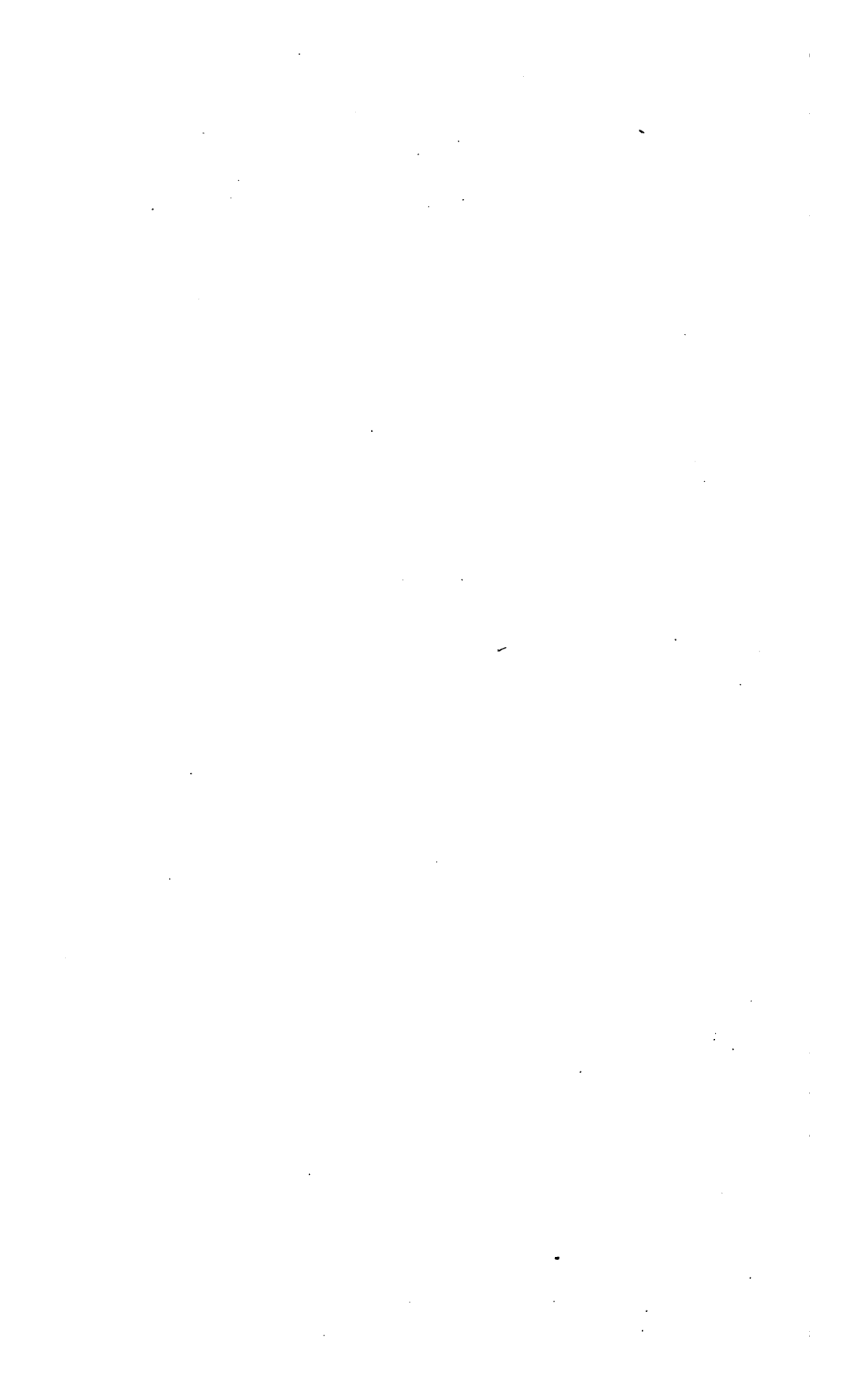
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# INTERNATIONAL HIGH COMMISSION

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## MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT OF THE UNITED STATES SECTION OF THE  
INTERNATIONAL HIGH COMMISSION ON THE FIRST  
GENERAL MEETING OF THE COMMISSION, HELD AT  
BUENOS AIRES, APRIL 3-12, 1916



DECEMBER 20, 1916.—Referred to the Committee on Printing  
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1916



LETTER OF TRANSMITTAL.

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To the SENATE AND HOUSE OF REPRESENTATIVES:

I transmit herewith, for the information of the Congress, the report of the United States section of the International High Commission on the first general meeting of the commission held at Buenos Aires, April 3-12, 1916.

WOODROW WILSON.

THE WHITE HOUSE,  
*December 20, 1916.*

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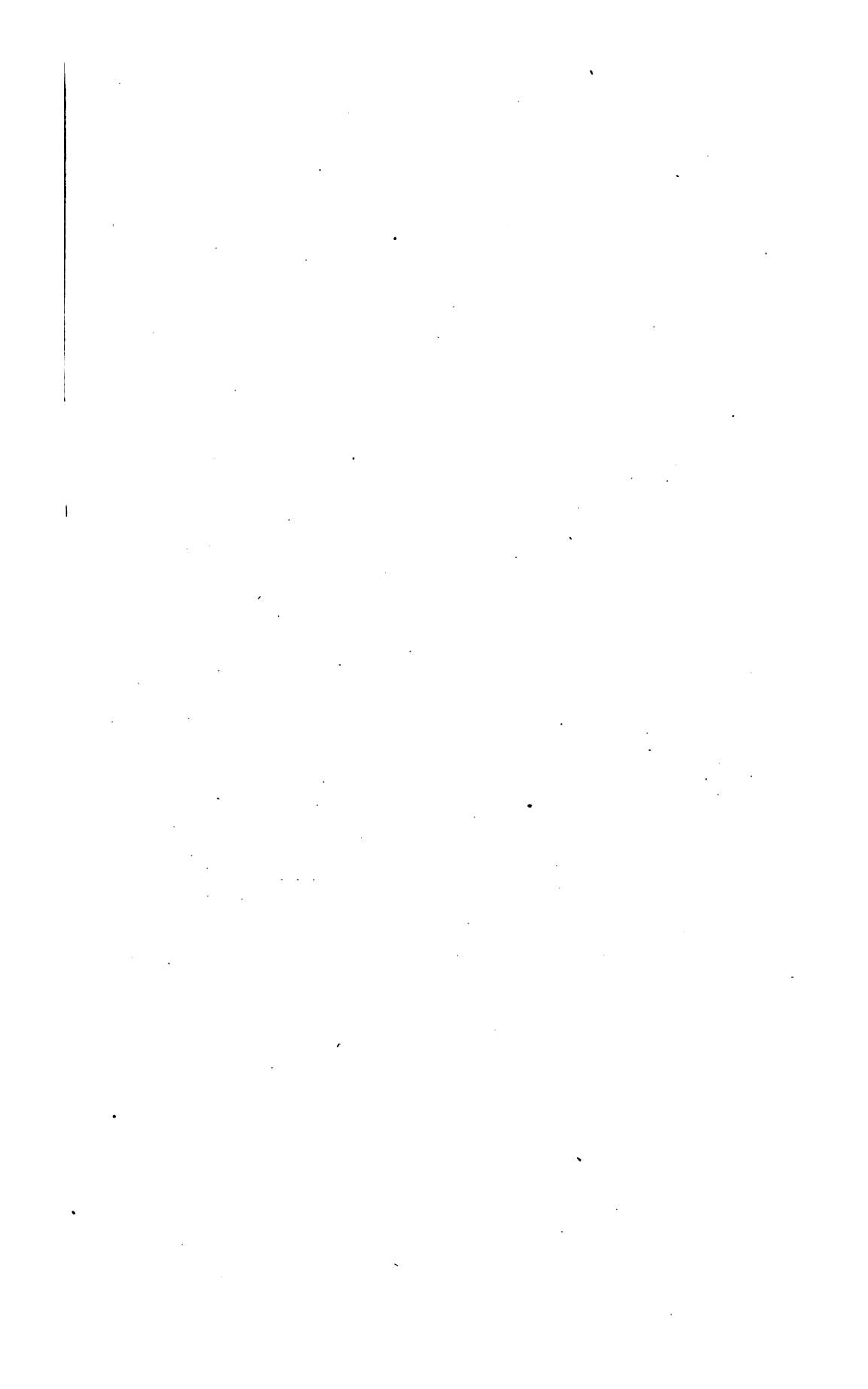
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## REPORT OF THE UNITED STATES SECTION OF THE INTERNATIONAL HIGH COMMISSION TO THE PRESIDENT.

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SIR: By the First Pan American Financial Conference, which was held at Washington in May, 1915,<sup>1</sup> with a view to bring about closer financial and commercial relations between the American Republics and to that end to foster uniformity of law and procedure in such matters, it was recommended that, in order to carry out these great objects, there should be created an International High Commission, a section of which should be established in each country. This recommendation was promptly carried into effect in the countries concerned; and by the act of Congress of February 7, 1915,<sup>2</sup> the United States section was endowed with a legal status. Each section consists of nine members, and is composed of jurists, financiers, and technical administrators.

During the past quarter of a century a great good has been accomplished by means of conferences between the independent countries of America, such as the four international American conferences (Washington, 1889-90; Mexico, 1901-2; Rio de Janeiro, 1906; Buenos Aires, 1910), the Conference on the Coffee Trade (New York, 1902), the Customs Congress (New York, 1903), and the series of sanitary conferences, the fifth of which was held in Washington in 1905. But in spite of all that had been attained there was a general sense of the need of direct, continuous, sustained effort to improve the financial and economic relations between the Americas and to remove the obstacles which existed to their satisfactory development. To meet this want is the prime object of the International High Commission and its respective national sections.

Students of the history of international cooperation agree that there are three fundamental factors in a successful international union—(1) periodical conferences, (2) an international organ or bureau, (3) an effective means of carrying out the measures adopted. In the relations of the American Republics during the last 25 years the first two elements have not been lacking. The American Governments have repeatedly manifested their willingness to enter into the discussion of their common problems; and in the Pan American Union they have an organ which has, under the wise guidance of the diplomatic representatives of the American Republics at Washington, contributed and will continue richly to contribute to the harmony and prosperity of the American nations.

What has been wanting is a persistent and organized effort to carry out the recommendations of the conferences. In contrast with the readiness to sign conventions on technical matters there has been

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<sup>1</sup> Proceedings, Washington, 1915.

<sup>2</sup> See Appendix A.



at times some reluctance to ratify them. The United States has occasionally been remiss in this regard, and the members of the United States section of the International High Commission consider it important to urge prompt fulfillment of this duty.

With no intention to dwell upon any definition of obligations, we venture to say that this commission is trying to create a keener sense of responsibility on the part of jurists and financiers in all the American Republics for the performance of their Governments of the obligations assumed by representation in those conferences and by the signing of the agreements therein adopted. A Government represented at such gatherings ought to accept or reject definitely the result of the deliberations, and, if accepting, to contribute to the success of the cooperative action by a reasonable accommodation of its local traditions, business methods, and administrative regulations. The International High Commission is not striving for literal uniformity and does not hold that strict identity in the provisions of commercial codes is useful, even if it be possible. The commission seeks to define certain common ends and then to suggest means to attain them that will be locally appropriate and feasible.

At the close of the Pan American Financial Conference at Washington (May, 1915), the presiding officer, the Secretary of the Treasury of the United States, invited the participating Governments to set in motion as rapidly as possible the machinery recommended by the committee on uniformity of laws. His efforts were successful, and the respective Governments rapidly announced the personnel of their national sections, all of which soon began their preliminary work. An early meeting of the commission was decided upon for the purpose of determining its *modus operandi* and of giving the necessary stimulus to useful study. Tentatively, November 1, 1915, was fixed as the date and Buenos Aires as the place, but it was later found necessary to allow more time, and the date was changed to April 3, 1916.

The chairman and secretary general of the United States section acted as chairman and secretary general for all the sections from the organization of the commission until its convening in Buenos Aires on the 3d of April. They encouraged thorough discussion of the topics proposed by the financial conference, and urged the preparation of expert reports on these subjects. This list was not regarded as final and several new topics were added.

At the end of February the final program was announced:

- I. Establishment of a gold standard or gold exchange standard.
- II. Negotiable instruments in international trade; bills of exchange; checks; bills of lading; warehouse receipts.
- III. Classification of merchandise; customs regulations; consular certificates and invoices; port charges.
- IV. Uniform regulations for commercial travelers.
- V. Patent, trade-mark, and copyright legislation.
- VI. Reduction and uniformity of postal rates; improvement of money-order and parcel-post facilities.
- VII. Extension of the process of arbitration for the settlement of commercial disputes.
- VIII. International agreements on uniform labor legislation.
- IX. Uniformity of regulations on the classification and analysis of petroleum and other mineral fuels with reference to national policy on the development of natural resources.

- X. Necessity of better transportation facilities between the American Republics.
- XI. Banking facilities; extension of credit; financing of public and private enterprises; stabilization of international exchange.
- XII. Telegraph facilities and rates; the use of wireless telegraphy for commercial purposes.
- XIII. Uniformity of conditional sales and chattel mortgage legislation.

The United States section of the commission was obliged, as you will recall, to request the use of a naval vessel in order to go to Buenos Aires. This fact was a significant commentary upon the lack of adequate steamship facilities; and the press of Latin America noted the urgency of a situation, as the result of which the United States delegates, in order to make the trip to Buenos Aires in a reasonable time, and especially in order to be certain of return connections, had to turn to the Navy for assistance. It is hardly too much to say that for most of the United States delegates participation in the conference would have been impracticable if they had been forced to rely upon the ordinary means of transportation. On the other hand, owing to the fact that the armored cruiser *Tennessee* was put at its disposal, the United States section was able to make relatively extended stops in the course of its journey.

On March 7 the *Tennessee*, with the undersigned seven members of the United States section, left Hampton Roads. Hon. John Bassett Moore, vice chairman of the United States section, and Judge E. H. Gary were unable to accompany the delegates to Buenos Aires. The secretary general, Dr. L. S. Rowe, of the University of Pennsylvania, was likewise unable to go to Buenos Aires, and Dr. C. E. McGuire served as acting secretary general.

On March 12 the *Tennessee* arrived at Port au Prince, Haiti, where the delegation visited the President of the Republic. The chairman of the section took the opportunity to assure him of the earnest desire of the Government of the United States to cooperate in every way with the Haitian Government for the promotion of the best interests of both nations. From Haiti the *Tennessee* proceeded to Rio de Janeiro.

The reception given to the delegation by the Brazilian Government was characterized by the unmistakable spirit of friendship for the United States that animates the Brazilian people, and after a stay of three days in the magnificent capital of the Republic the delegates departed with a deep sense of the warmth and cordiality of their reception. The opportunity, moreover, was improved to get into touch with the Brazilian members of the International High Commission.

The whole-hearted enthusiasm and hospitality manifested toward the United States delegation by the Uruguayan Government is also particularly worthy of notice. During a sojourn of two days in Montevideo the delegation was most kindly received, expressions of amity and good will were heard on every hand, and views were freely exchanged with the Uruguayan section on the work of the commission.

The conference at Buenos Aires opened on the morning of the 3d of April and closed on the afternoon of the 12th. The general sessions, including the preliminary business session, were only six in

number, and the activities of the conference were centered about the work of the seven committees.<sup>1</sup>

The inaugural session was opened by His Excellency Dr. Victorino de la Plaza, President of the Argentine Republic.<sup>2</sup> Dr. Francisco J. Oliver, Argentine minister of finance, was then, upon the motion of the chairman of the United States, unanimously chosen as presiding officer of the conference.<sup>3</sup> Other addresses of general character were made at this session, closing with a careful survey of the task of the International High Commission by the chairman of the United States delegation.<sup>4</sup>

The conference was then organized in accordance with the rules suggested by the Argentine section of the commission. Vice presidents were chosen, and the secretary general of the Argentine section, Dr. Emilio Hansen, former minister of finance, was chosen secretary general of the conference. Then followed the assignment of delegates to the seven committees in accordance with the desires of the respective delegations.

At this point the United States section desires to pay sincere tribute to the admirable manner in which Dr. Oliver presided over the deliberations of the conference and guided its work. It wishes also to express its appreciation of the unfailing thoughtfulness that characterized Dr. Hansen's performance of the responsible duties of secretary general. To the skill of the presiding officer and the efficiency of the secretarial force was largely due the ability of the conference to secure concrete results in a brief space of time.

Throughout the conference, both during the general meetings and in informal discussion, the members of the United States delegation were impressed by the earnestness that inspired the delegates from Central and South America. The atmosphere of the conference was one of genuinely constructive international friendship. Nor should we fail to express our gratitude for the generous hospitality extended to us by the Argentine Nation.

The considerate attentions of the Argentine Government were not relaxed when the United States delegation departed from its capital, nor were those of the Chilean Government deferred until the delegation arrived at Santiago de Chile. Both Governments put special trains at the disposal of the delegations of Bolivia, Chile, Cuba, Panama, and the United States. The reception extended by the Chilean Government could not have been more whole-hearted.

The delegation departed from Valparaiso April 19, and was profoundly disappointed to find itself unable to accept the hospitable invitation of the Peruvian Government to spend several days at Lima. The Secretary of the Treasury, however, visited Lima and discussed with His Excellency, the President of the Peruvian Republic, the various means of improving the financial and commercial relations between Peru and the United States. None of the South American Republics has immediately before it greater possibilities of material development than Peru; and no country, the president pointed out, is so likely to improve its financial and commercial relations with the United States so rapidly and satisfactorily, as a

<sup>1</sup> A list of all the delegates will be published in part 2; but a list of United States delegates and their committee assignments will be found in Appendix B.

<sup>2</sup> See Appendix C.

<sup>3</sup> His inaugural address will be found in Appendix D.

<sup>4</sup> See Appendix E.



result of the opening of the Panama Canal, provided always that adequate means of communication are to be had.

The stay of the *Tennessee* at Panama was regrettably short as, indeed, was the time spent in Habana. In both capitals the members of the United States party discussed with those members of the national sections who had not gone to Buenos Aires the best means of putting into effect the results of that conference and of promoting the most favorable relations between their respective Republics and this Government. On May 5 the *Tennessee* anchored at Hampton Roads and the United States delegation disembarked, carrying with them grateful memories of the kindness and courtesy shown on every occasion by the captain, officers, and crew.

#### THE WORK OF THE CONFERENCE.

As has been indicated, the International High Commission had undertaken the examination of a number of difficult problems of varied character. Some related to the lack of harmony between the administrative and fiscal regulations of the different countries, such as customs regulations or of the rules governing the operations of commercial travelers, resulting in uncertainties and losses on the part of merchants; others to the insufficient protection given to industrial or literary property; and others yet to differences in juristic theories, as in the matter of the interpretation of negotiable instruments or of the enforceability of arbitral awards in commercial disputes. The commission had, furthermore, to consider the vital question of transportation. Here it could scarcely do more than define certain broad general principles along which the several governments might effectively cooperate; but the vast importance of the subject was attested by the fact that all the delegations in the First Pan American Financial Conference had in their memoranda and reports emphasized the lack of adequate means of transportation. Finally, there was the far-reaching question improving conditions under which the operations of private finance may be carried on, including the stabilization of international exchange, the enlargement of banking facilities, the making possible a greater extension of credit for the ordinary needs of commerce, as well as for the carrying out of important public and semipublic enterprises, the encouragement of all reciprocal movements that tend to extend markets, all of which may involve in some measure the exercise of governmental authority or remedial legislation. The members of the commission were well aware that all these topics necessarily cleave to the great mass of customs and traditions of trade over which formal bodies, whether national or international, can set up but a slight jurisdiction; and they were careful to deal with them with due regard for this vital fact. The main emphasis, however, was intended to be placed on public finance and commercial law, wherein the problems require patient and long-continued work. The subjects not included in these categories may be considered to have been referred to the commission by the financial conference rather for expressions of opinions as to general policy than for expert direction.

The commission, realizing that, although concrete recommendations might readily be prepared, the success of any attempt to carry

these recommendations into effect would depend upon the machinery devised by the commission itself, gave its most serious thought to this matter throughout its sessions. One of the last matters upon which is acted, on the afternoon of April 12; deserves attention at this point, not only because of its paramount importance to the future work of the commission, but also because of the frequent reference that will have to be made to it in the course of this report.

The resolution adopted by the committee on permanent organization opens with a formal confirmation of the structure previously agreed upon for the International High Commission, according to which each section of the commission is to consist of nine members, one of whom shall be the minister of finance, who will serve as chairman. The sections as constituted during the interval between the Pan American Financial Conference at Washington and the meeting of the International High Commission at Buenos Aires are continued, so far as the international organization is concerned, for, while the power of the executive in each country to alter the membership of the national section is in no way diminished, the commission wished to safeguard the relations that had existed, in some cases merely by temporary executive order rather than on the basis of legislative authorization. It is the earnest hope of all the members of the commission that the participating Governments will, as soon as may be possible, give formal legislative authorization to their national sections.

The commission then constituted a central executive council for the purpose of systematizing and coordinating its work. This body will carry out the recommendations of the commission and prepare the program of the second meeting of the commission. The council consists of three members—a president, vice president, and a secretary general. Its membership depends upon the country chosen as headquarters by the commission; that is to say, the commission selects the country in which it wishes its work concentrated, and the chairman, vice chairman, and secretary of the national section of that country automatically become the central executive council. All expenses incidental to the work of the council are borne by the national section concerned. The council is directed to submit rules of procedure before the second meeting.

The resolution prescribes the manner in which future meetings of the commission shall be convened. The second meeting is not to be called until after two years have elapsed, and then only upon a request addressed to the central executive council by at least five sections. The council is required to consult all the sections as to the place and date of meeting and follow the vote of a majority of them. The presiding officer of the meeting is in each case to be the minister of finance of the country in which the meeting is held.

Upon the motion of Dr. Samuel Hale Pearson, of Argentina, Washington was unanimously designated the headquarters of the commission until the next meeting. The chairman, vice chairman, and secretary of the United States section thus automatically become the central executive council. They have the responsibility of determining the commission's future relations with the respective Governments and with the Pan American Financial Conferences and of carrying out its recommendations. It is wholly within

the purpose of the act authorizing the United States section of the International High Commission and providing for its maintenance that its officials should be authorized to accept this responsibility, which in truth constitutes the most definite form of cooperation on our part with the Central and South American Republics in this work. All the members of the United States section fully concur in the words of the chairman of our delegation at Buenos Aires when he thanked the assembled commission for the "signal honor \* \* \* conferred upon our country by designating Washington as the headquarters of the International High Commission"; and they express their fullest confidence that the chairman and his associates of the central executive council will "bring to this service the very fullest measure of intelligence and devotion."

In outlining the work done at Buenos Aires the present report will follow the order of topics as followed in the meeting itself. We deem it wise, therefore, to set forth the chief facts in connection with the several topics and then to summarize the discussion and the resolution adopted, finally suggesting the most practical manner of making the recommendation effective.

#### FIRST COMMITTEE.

- Topics:** I. Establishment of a gold standard or gold exchange standard.  
 XI. Banking facilities; extension of credit; financing of public and private enterprises; stabilization of international exchange.

#### TOPIC I.

The first question had been discussed between the American Nations for more than a quarter of a century. The First International American Conference of 1890 attempted to correct monetary uncertainty with a common coin. As a result of one of its recommendations an International Monetary Conference met in Washington in 1891 to study the problem of depreciated currency. This conference was content to adopt a general resolution favoring an international conference on bimetallism, in which Europe as well as America should be represented. The Third International American Conference at Rio de Janeiro in 1904 resolved that all the Governments should be requested to send to the Pan American Union studies of their monetary systems, so that the Union might prepare an elaborate report on the subject for the fourth conference. The response to this recommendation was very slight.

Familiar with this history, the United States delegation aimed at the adoption of a money of account as a step to a stable system of gold-exchange standards, and as a stimulus to commercial transactions. The Argentine delegation recommended the adoption of a gold coin of the weight and value of the gold unit existing in the Latin Union, with an international agreement on the mathematical equivalence between this money and the monetary unit of each country. The Bolivian delegate on the committee proposed the establishment of an actual international gold currency with a unit of 1 gram of pure gold, to exist side by side with the national system heretofore authorized, and the details of which would be supervised by the Pan American Union and the United States Treasury.



Finally, the Uruguayan delegation proposed a unit of account equal in value to the gold franc, to be known as the Pan American coin; and, an eminent member of that delegation, Dr. Llamas, urged that it should be used in all Government publications besides the national currency, while the Pan American Union could in its publications give tables of equivalences between the currencies of the participating republics and this unit, and the International High Commission ought to secure the adhesion of chambers of commerce and other organizations to the system.

These and other suggestions equally interesting were subjected to a searching analysis by the subcommittee. The members of the committee agreed that such an international unit of account was necessary. The discussion centered rather about the details of weight and fineness than about the principle at issue. The delegates readily agreed that any international unit must be a small one so as easily to fit into the economic needs of all the countries interested. The question was whether this unit should be a franc exactly equivalent to that of the Latin Union—that is to say, weighing 0.3226 grammes, or one weighing 0.33437 grammes, and exactly equal to one-fifth of the gold dollar of the United States—that is, worth \$0.20 or \$0.193 in United States gold. The importance of European trade in South and Central America lent weight to the suggestion that such a unit should fit in with some system already in use in Europe. Several South American countries, notably Argentina, already possess a system based upon that of the Latin Union. This view was urged by Dr. Piñero, of Argentina, as follows:

It is more desirable to select a gold money of the same weight and value as the unit of the Latin Union, since the latter unit is based upon the decimal metric system, has a great range of circulation, is widely known beyond the states composing the union, and enjoys legal standing, while its reduction to other monetary units is a simple operation and its use in calculations and accounts is both easy and safe. Especially would the adoption of this unit remove any obstacles and difficulties that now embarrass the relations, so important and so numerous, existing between the American peoples and the European nations that compose the Latin Union.

The view of Dr. Piñero and those who share his convictions is expressed in his memorandum in the following terms:

The future of the dollar of the United States is the greatest that any monetary system can have. It would seem probable that this dollar may come to be the international money, but this will occur only when and provided that the United States dollar conform more readily to the decimal metric system, and be reduced to exact equivalence with the gold 5-franc piece of the Latin Union.

On the other hand, the United States delegation pointed out that business circles in the United States would readily subscribe to so simple an alteration as the creation of a unit of account worth one-fifth of the existing national unit, provided that such action would improve commercial relations. They urged the value of a system exclusively American, and likely to give every incentive to the banking communities in the richer countries, especially in the United States, to engage in trade or investment in other countries. With no intention to diminish the strength or cordiality of the relations existing between Latin America and Europe, our bankers and business men simply desire to create equally strong and enduring bonds between Latin America and the United States; Europe's part in the commerce and industry of Spanish and Portuguese America would

be only relatively less important; and the United States would ask but little encouragement to do its share in developing the commerce and industry of the southern continent.

The subcommittee submitted the following resolution to the committee, which in turn reported it to the commission:

The International High Commission believes that in view of the present monetary situation of the American Republics, the establishment of an actual uniform gold currency by these nations is an ideal impossible of realization. The only measure feasible at this time is the adoption of a money of account. Your subcommittee recommends that the unit of this money of account should contain 0.33437 grammes in weight, and be nine hundred one-thousandths fine; its multiples and submultiples should be based upon the decimal system and its ratio with existing monetary units be established by common agreement.

A cursory examination of available financial statistics showed how complex must be the task of introducing a gold standard into some of the Central and South American Republics. The question in each case is vitally bound up with trade balances and with local economic and financial conditions. The central executive council proposes no immediate change. It looks forward to the gradual adoption of the money of account in Government publications, tariff schedules, and customs documents. In time the advantages of facilitating banking operations through the medium of this money of account will become more and more widely known, and then measures might be taken for the expansion of this movement and the actual coinage of an international currency. The most practical means, however, of encouraging the establishment of a gold standard or gold exchange standards in the South and Central American Republics would be the establishment of an international gold clearance fund under the guaranty of many or all of the American Republics.

Briefly stated, this plan calls for the assumption on the part of all Governments signatory to the treaty of an obligation to regard the international fund as inviolable and to facilitate and protect the operations conducted by the various depositary banks agreed upon by the Governments. The physical transfer of gold with every large exchange transaction would thus be avoided; the gold would automatically pass to the depositary of the international clearance fund, while equally automatically the corresponding bank would release an equal sum to be drawn against by bills of exchange. Such a system obviously offers considerable economy in the cost of shipping, insuring, melting, and recoinng bullion. In the course of time its adoption would lead to substantial reliance upon the proposed money of account, and ultimately stocks of gold would be coined on this basis, and the American franc would become a real coin in commercial use.

These suggestions met with favor, and the central executive council is taking the proper steps through diplomatic channels to secure their realization.

#### TOPIC XI.

There was much less opportunity for concrete suggestion in this field, and few memoranda were presented by the various delegations. It was, of course, entirely obvious that the financiers representing Central and South American Republics were anxious to learn what prospect there was of a greater amount of capital going to their respective countries from the United States. The United States

delegates pointed out that a beginning had been made in this direction; that various banks had already established branches in Latin America; and that other institutions were taking steps to engage in banking there.

The subcommittee agreed that one of the first steps would be the establishment of branch banks, not only for the purpose of facilitating normal business transactions, but also as a means to insure an adequate supply of capital for local investment needs. A resolution was adopted to the following effect:

That the International High Commission recommend to the American Governments the adoption of such measures as will place the banks in each country, wherever possible, in a position to extend their activities abroad, to establish branches on terms of reciprocity, and to facilitate the granting of credit to the trade and industry of other countries of the continent.

*Resolved, further,* That the International High Commission recommend to the institutions of credit of each country the adoption of such measures as are indispensable for the establishment of relations with those institutions in other American States, subject to their laws and on terms of reciprocity.

By virtue of the amendments to the Federal reserve act approved September 7, 1916, the United States national banks may now jointly own stock in banks "operating principally in foreign countries" under either State or National charter; and they are also permitted to accept clean three months' drafts, such as are required as means of remittance in foreign countries. The reserve act was further amended to allow Federal reserve banks to open reciprocal accounts for foreign banks that may become correspondents or agents of foreign banks. These are concrete, constructive measures largely serving to carry out the resolutions above recited—so far as legislation is concerned—and they are but another evidence of the tremendous impetus given by the First Pan American Financial Conference to the movement for a more intelligent cooperation between the merchant and the Government in the development of foreign trade.

#### SECOND COMMITTEE.

**Topics:** II. Bills of exchange; bills of lading; warehouse receipts and other commercial paper in international trade.  
XIII. Uniformity of laws for the protection of merchant creditors.

#### TOPIC II.

The second committee considered the uniform rules upon bills of exchange formulated at The Hague conferences of 1910 and 1912. This section hoped to secure, with reference to bills of exchange, the adjustment of local laws to the most liberal legal theories prevailing in the great commercial nations through the adoption in Latin-America either of the so-called Anglo-American principles or of the continental law as expressed in The Hague uniform rules. The Latin-American jurists believe that The Hague rules are more in line with the normal and natural development of their own law than is the Anglo-American law on bills of exchange. In view of this preference and of the fact that if The Hague rules were widely adopted in Latin America, there would be, broadly speaking, only two systems in use in this hemisphere, respectively based on the uniform rules of The Hague and on the United States uniform negotiable instruments act, this section recommended that The Hague

rules be adopted; that the commission proceed to regulate those matters left by The Hague convention to the free action of the contracting States; and that authoritative Spanish and Portuguese translations of the rules and relevant laws and commentary be circulated preliminary to the carrying out of the first recommendation.

Argentina recommended the adoption of the uniform rules of 1912 on the principle that the rules adopted should be those in use by the greatest number of States. The Uruguayan delegation submitted a report and draft embodying the best elements of the law on bills of exchange to be found in the commercial codes of Central and South America; and urged, pending the adoption of this draft, the acceptance of the series of definitions on bills of exchange formulated by the Congress of Jurists at Montevideo in 1889.<sup>1</sup> The Brazilian delegation urged that the International High Commission take as a basis of study The Hague rules, together with the laws of England and the United States, so as to unite the best elements of all in one system. The Venezuela delegation advocated the adoption of The Hague rules with certain modifications, and outlined a number of changes which it regarded as expedient. The delegation of Salvador contented itself with the acceptance of The Hague rules without change, while that of Costa Rica, after recommending public circulation of authorized Spanish and Portuguese translations of the rules, advised their adoption, with the reservations permitted by the first 22 articles of the convention, as well as others.

After the presentation of these memoranda the committee proceeded to study The Hague convention and reglement in detail with a view to determine to what extent each article was consonant with the law of each country and to find a compromise rule where necessary. An effort was made to dispense with the reservations permitted by the convention, and on the whole it was a successful effort. Permission to adhere to traditional national law was reserved in a few minor cases, but only in one important case, that of article 74 of the rules and articles 18 and 20 of the convention. It is not necessary to dwell upon these articles; the conflict between the law of nationality and the law of domicile has been an important point in all branches of commercial law. It is not readily realized how large a part of the exchange business of all the Republics of Central and South America involves transactions with Europe and with the United States, but it is easy to see that if many transactions were to rest within the jurisdiction of Europe or of the United States there would be little recourse to South American jurisdiction. A number of the delegates therefore found it impossible to accept article 74 of the rules and insisted that its consideration be postponed, although a strong argument for the adoption of that article was made by Dr. Eusebio Ayala, of Paraguay. Further formal consideration of this point was postponed until the second meeting of the commission.

The committee directed that the text of the uniform law be modified in accordance with these resolutions and that the draft of the law thus modified be submitted to the several Governments. The acceptance of the definitions formulated at the conference at Montevideo in 1889, was urged on the ground that these definitions would facilitate the adoption of the uniform rules.

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<sup>1</sup> These will be found in part 2.

The committee found time to refer to the other commercial documents which serve as instruments of international trade, recommending that the various Governments study The Hague rules on checks formulated in 1912, with a view to making appropriate suggestions to the second conference of the commission. With reference to bills of lading and warehouse receipts, the committee examined the Spanish versions of the United States uniform laws.

The recommendations of the committee on negotiable instruments seem quite practicable. The passage by the Congress of the United States of the Federal bills of lading act has encouraged Latin America in the belief that our Government is sincerely endeavoring to make the instruments of commercial intercourse uniform and secure. Failure to pass this act would have made it difficult for this section to urge the enactment of similar legislation elsewhere.

The central executive council is now circulating the material requested on these subjects.

#### TOPIC XIII.

This committee dealt likewise with the thirteenth subject of the program which had been proposed by the Argentine delegation. The object of this topic was to secure adequate protection for the vendor of merchandise against the insolvency or bad faith of the purchaser. Dr. Ricardo C. Aldao, of the Argentine delegation, in presenting a memorandum on the subject, insisted that the vendor of chattels should have the same protection as that accorded to the vendor of realty, so long as the identification of the chattels be possible; that the mortgage of goods should likewise be illegal if the goods have not been paid for; and, finally, that the rights of the vendor are superior so far as merchandise sold by him is concerned to the rights of the lessee or pledgee. Dr. Aldao further urged the enactment of legislation compelling merchants to leave clear records in their books not only of purchases but also of all sales of merchandise of which they are not yet owners.

The committee unanimously resolved to recommend to the Governments of all the American countries the inclusion in their legislation of provisions "assuring the legal status of credits arising from the sale of merchandise." At this time the Conference of Commissioners of Uniform State Laws is engaged in preparing a second draft of its conditional sales act, and in view of generally similar conditions, the council no doubt can secure from the conference of commissioners valuable assistance in finding a remedy for this situation.

#### THIRD COMMITTEE.

**Topic: III. Uniform classification of merchandise; uniform customs regulations; uniform consular certificates and invoices; port charges.**

The subjects considered by the third committee have been a part of the program of every Pan American conference since 1889. The conference of 1889-90 strongly urged uniformity of customs and consular regulations and called for a preliminary survey of existing regulations. The second conference concluded that only a gathering of technical experts could solve these problems. In consequence



a customs congress was called, and met in New York in 1903. This body found that it had not enough material at hand for the formulation of detailed regulations, and was obliged to refer the matter to the Pan American Union for further research and comparison. Again, at Rio de Janeiro, in 1906, the Third Pan American Conference felt that the subject was too technical for action in a general assembly, and resolved to create a section of commerce, customs, and statistics in the Pan American Union. Practical difficulties arose, however, to delay the establishment of this section until after the fourth conference, at Buenos Aires, in 1910. This conference, besides urging the establishment of the section and defining its status and activities, reviewed the work of the earlier conferences and of the customs congress, prepared a uniform consular invoice, and agreed to abolish the certificate of origin and consular certification of bills of lading.

The United States section of the International High Commission, on the basis of the excellent reports prepared for its consideration, aimed at accomplishing the following objects:

1. Adoption of the Brussels classification by all the American nations for statistical purposes.
2. Adoption of the uniform manifest approved by the Fourth International Conference of American States, at Buenos Aires, in 1910.
3. Abolition of consular certification of manifest.
4. Abolition of the certificate of origin.
5. Adoption of the invoice recommended by the conference of 1910, consolidating the material requirements of the various governments.
6. Use in the invoice form of the language of the country of exportation as well as that of the country of importation.
7. Limitation of government requirement of invoices to four copies.
8. Free supply of invoice blanks by consular officers.
9. Establishment wherever possible of a fixed fee for certification of invoices.
10. Adoption of a rule permitting one consular invoice to cover an entire shipment from one consignor to one consignee, regardless of the number of separate marks in the shipment.
11. Abolition of consular certification of bills of lading.

In addition, the United States section desired to urge the adoption by the customs authorities of Central and South America of a more complete and adequate system of checking off goods and auditing the receipt and payment of customs dues. An investigation made under the direction of the Federal Trade Commission has shown how helpful would be the use of an audit system similar to that of the United States. This system would depend upon a central valuation bureau for each customs service. Samples would be sent from all custom-houses to these bureaus to be passed upon with a view to establishing a uniform and consistent classification and rating.

Finally, the United States delegation prepared a plan for the sanitary certification of freight between American ports, which would assure the care and circumspection necessary for the several types of freight. This plan<sup>1</sup> provides for an annual conference of quarantine officers to be held at convenient centers for the purpose of devising effective systems of inspection of quarantine facilities and methods. International sanitary regulations would be developed in the course of time. This plan was referred to the sixth sanitary conference, scheduled to meet at Montevideo after the war.

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<sup>1</sup> To be published in part 2.

Carefully prepared memoranda<sup>1</sup> were presented to the committee by the Argentine and Uruguayan delegations on the adoption of an international system of classification and the limitation of consular documents to manifest and invoice, and they pointed out how the procedure surrounding the issue and certification of these documents could be made simpler.

The committee compared the recommendations made by the various delegations and succeeded in constructing a definite series of proposals which will serve as an excellent starting point for the labors of the central executive council in this matter. It confined its recommendations to matters of practical character and made no attempt to deal with the question of fiscal policy or with tariff rates.

The first section of the report deals with classification of merchandise, and here the committee unanimously recommended the scientific and flexible system adopted at Brussels in 1913. This system will be used for the present merely for statistical purposes; but the committee recommends that thought be given to the use of the Brussels schedule in the formulation of fiscal tariffs. The committee further advised the use of the Pan American money of account in the publication of statistics.

The advantage of uniformity in statistical methods is readily seen. As pointed out by Dr. Rutter in his report upon this subject to the United States section of the commission, statistical methods can be altered by administrative action without change of law, and a uniform classification may be adopted as a supplementary system without affecting the regular statistics published by each country. The Brussels classification is, of course, general in character, having only 186 items, as compared with 5,000 items in the tariff schedule of the United States. It is, however, clear that no prospect of uniform customs classification will exist unless the statistical tariffs can be made reasonably uniform.

The committee further accepted the suggestions made by Dr. Vazquez, the Uruguayan delegate, that a scientific nomenclature be constructed for the tariffs of all the American Republics, together with a statement of all duties and surcharges both by items and in the aggregate. The value of a reliable compilation of this material would be unquestionable. With regard to uniformity of customs regulations, the saving of time through the discontinuance of the less necessary formalities, and the reduction of charges imposed upon merchandise in transit were the chief objects of the report. The recommendations of the Fourth Pan American Conference in Buenos Aires in 1910 with reference to consular certificates and invoices were accepted practically without change. The obligation to secure action is consequently all the more heavily incumbent upon the central executive council. Similarly, with reference to port charges, it was felt that nothing more could be done than ask for the greatest exercise of moderation in imposing harbor dues; beyond such a recommendation the committee did not attempt to go, except to suggest that tonnage dues be computed on the basis of net registered tonnage.

The program of the International High Commission in these matters was thus clearly constructed. Regarding the recommendations, not so much from an international point of view as from that of

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<sup>1</sup> Both will be found in part 2.

specific action on the part of the United States, this section ventures respectfully to suggest that the following action be taken:

1. The Department of Commerce to publish the export and import statistics of the United States in accordance with the Brussels classification expressing all values in United States currency and in the American franc.
2. Measures to be taken involving legislative action, if necessary, to secure the uniform adoption in this country of the standard manifest and invoice recommended by the conference.

As for international action, we believe that the central executive council may expect practical results through:

1. The construction by fiscal experts of a scientific schedule in as great detail as that of the United States as the basis of the nomenclature.
2. Practical representations to the respective sections as to adoption of uniform regulations and prescription of uniform documents.

#### FOURTH COMMITTEE.

**Topics: IV. Uniform regulations for commercial travelers.**

**VII. Extension of the process of arbitration for the settlement of commercial disputes.**

#### TOPIC IV.

The unrestrained local regulation of commercial travelers and imposition of taxes upon their operations has long formed an obstacle to the expansion of trade in Latin America, but until recently no definite action had been taken in the matter. The First and Second Congresses on Customs Regulations, held in Paris in July, 1900, and in November, 1913, elaborated a "customs card," which was to be issued by customs authorities of the salesman's country and was to contain detailed information as to his business and the character and quantity of his samples. Supplementary coupons attached to the certificate were to provide for his entrance into the countries specified or his departure therefrom. Both congresses acknowledged the necessity of completing the customs examination of samples within 24 hours after arrival and the desirability of suppressing, or at least consolidating and rendering uniform, all taxes and local fees.

As was pointed out during the First Pan American Financial Conference, the fees imposed upon the operations of commercial travelers differ throughout the Central and South American Republics. The fees themselves are occasionally large, the periods of time for which licenses are valid are never very great, and the restrictions upon the activities of travelers are sometimes severe. This delegation advised that such regulations as were necessary be made as liberal as possible. It was urged that while cases may have occurred in which commercial travelers sought to circumvent the customs laws, in these days commercial houses select their traveling men with great care. The section, convinced that the facilitation of the activities of the salesmen would be beneficial for all parties concerned, ventured to suggest the serious consideration of the certificate devised by the Second Congress on Customs Regulations, to which reference has been made.

Dr. Luis Zuberbühler, of the Argentine section, presented to the commission an illuminating and compact report upon this subject, in which he analyzed the laws of all the commercial peoples of the world, and submitted a series of recommendations which met with the approval of the commission. He declared that arrangements might be

made by treaty to federalize, consolidate, and reduce the license fees imposed upon commercial travelers, as well as to provide for the temporary admission of samples of commercial value subject to bond.

The United States section notes with satisfaction that the practical recommendations of this commission in this regard have already served as the basis for legislative projects in Argentina. The preparation of a standard form of treaty to secure similar legislation elsewhere will entail no difficulty and is under way.

#### TOPIC VII.

The other matter with which this committee dealt was also new to the program of Pan American conferences. Arbitration of commercial disputes is a subject to which attention has been drawn in recent years through the activities of the international congresses of chambers of commerce. The fifth of these congresses, held in Boston in 1912, recommended that the United States call an international congress to organize an international court for the settlement of disputes between Governments and aliens. Excellent machinery for the settlement of such cases has, however, already been provided through the action of the Fourth International American Conference, held at Buenos Aires in 1910, in indefinitely extending the availability of the convention on pecuniary claims adopted by the second conference in 1901-2, and temporarily renewed by the third in 1906. It is hoped that steps may be taken to secure the ratification of this convention.

The Sixth International Congress of Chambers of Commerce, which met at Paris in the early summer of 1914, resolved that an international technical conference should be convened for the purpose of working out an international agreement on the arbitration of commercial disputes. For some years the Cotton Manufacturers' Association of Italy and France had a practical arrangement of this sort, and in 1910 the Congress of the International Association of Publishers at Amsterdam agreed on rules for that trade. Consequently, the idea was reasonably familiar, and the sixth international conference formulated it to the extent of calling for international rules. The suggestion was even made that there be established, presumably at The Hague, a permanent bureau to digest and publish the decisions of the chambers of commerce and to revise their arbitral procedure.

On the basis of the work of the international congresses of chambers of commerce, in 1915, and at the suggestion of the Argentine delegation to the Pan American financial conference, negotiations were begun between the Chamber of Commerce of Buenos Aires and that of the United States. The agreement between these bodies, in effect from April, 1916, establishes the method of selecting arbitrators and the procedure of the arbitral boards, and is supplemented with rules for the disposition of merchandise during proceedings.

The commission recommended the adoption of this agreement between all American commercial organizations. It also urged measures for the settlement of commercial controversies of an international nature, thus instructing the central executive council to effect more general ratification of the convention of 1910 on pecuniary claims.

Objections that this system is unworkable, that arbitral awards can not be enforced by the courts of the United States, and that industrial technicians can not be turned into judges, are by no means insuperable. What is aimed at, and what is likely to be achieved, is the prompt examination and adjustment of disputes, with public registration of the decisions. Agreements that involve the credit and standing of any group of business men are likely to be effective. The commission urges, therefore, that the commercial and financial communities of America lend their heartiest and most sustained support to this praiseworthy movement for a direct, inexpensive, and expeditious method of settling commercial disputes.

#### FIFTH COMMITTEE.

**Topics: V. Patent, trade-mark, and copyright legislation.**

**VI. Reduction and uniformity of postal rates; money-order and parcel-post facilities.**

#### TOPIC V.

No subject has been more frequently discussed in the international conferences of American States than the protection of industrial and literary property. As far back as the juridical congress of Montevideo of 1888-89, treaty drafts on patents, trade-marks, and copyrights were studied, patent treaties of Paris (1883) and Brussels (1900) and the trade-mark treaty of Paris (1891).

With reference to patents, the conference of 1910 was content to enunciate the general principles protecting the rights of inventors, and referred the signatory States for the details of their legislative form to the international treaties of 1883 and 1900. Provision was made for international registration of trade-marks at bureaus in Habana and Rio de Janeiro, and the complex question of priority of application for registration was regulated. For copyright registration, the bureau system recommended by the conference of Rio de Janeiro was given up. The fourth conference sought to assure equal rights in all signatory States to applicants for copyright in any one of them. Eleven States, including the United States, have ratified this treaty. The most recent ratification, that of Costa Rica, has occurred since the Buenos Aires conference, and in part due to the recommendation there made.<sup>1</sup>

Early ratification of the three conventions of 1910 is necessary rather than desirable, as otherwise the situation with regard to patents is simple; nine States had ratified the convention, although not always enacting the necessary administrative legislation. Here, therefore, ratification of the convention and enactment of legislation making it effective is what is needed. With reference to copyrights, in addition to recommending ratification the section submitted modifications of the convention, proposed by representatives of the music publishing and motion-picture industries in the United States. As for trade-marks, it was brought out that some American countries grant protection to the person who first registers, and the formalities surrounding registration do not always adequately guarantee ownership, nor is the owner always able to recover possession by proving in

<sup>1</sup> At the same time Costa Rica has ratified the patent, trade mark, and pecuniary claims convention of 1910.



court the fraud of the first claimant. The adoption of the treaty will correct this.

Other delegations suggested changes in the conventions, especially that of Chile, which pointed out the necessity of defining exactly the priority of registration as between trade-marks registered at either of the international registry bureaus of Rio de Janeiro and Habana and those registered in any one country, and the importance of more explicit restrictions on national registration as contrasted with that of the international bureaus. The Chilean delegate proposed that these matters be referred to the respective Governments for study and consideration at the Fifth International Conference of American States, to be held at Santiago de Chile after the war.

The committee recommended the ratification of the convention of 1910 and referred all modifications to the fifth international conference. The suggestion of Dr. Lobos, as to the renewal of the registration of patents and trade-marks in the case of countries at war, was also approved.

In accordance with the resolution of the committee, an inquiry is being pursued by the central executive council among those countries that have not yet ratified these conventions, with a view to learn the reasons for nonacceptance. Little difficulty will be experienced in putting the provisions of these conventions in effect in the United States, and, in fact, our law is now practically in accord with the convention. Congress, however, would have to appropriate the money required under article 15 of the convention. With regard to copyrights, the section believes that to same extent the recommendations of the committee can be realized by an informal agreement between the administrative officials of the several national copyright bureaus. If the exchange of registry entries between some of the copyright offices could be regularly effected there would soon be a more widespread recognition of the superior advantages of the system formulated in the copyright convention. The council is cooperating with the register of copyrights to this end.

#### TOPIC VI.

Like other subjects on the program of the International High Commission, the question of improved postal facilities is not new in American conferences. The conference of 1889-90 emphasized the need of adequate steamship facilities in connection with mail service. In recent years the reduction of rates has been the side of the question most discussed. The Fifth and Sixth International Congresses of Chambers of Commerce resolved in favor of the adoption of universal 2-cent postage. Naturally many of the American Republics for fiscal reasons can not go quite so far as they would like in reducing postage rates. An early agreement on this matter and study of the possibility of improving money-order and parcel-post facilities were recommended by the commission. Improvements could be effected in the parcel-post system through the correction of delays, the reduction of delivery fees, the introduction of the "cash-on-delivery" system, and the establishment of an equitable system of division of parcel-post receipts. Vigorous steps should

be taken to create an American system of money-order conventions, and various administrative problems of importance have to be solved. The best results could be achieved in these technical subjects by the establishment of a permanent international postal union comprising one or more experts representing each country. In 1911 there was held at Montevideo a South American postal congress, which recommended measures for the improvement of the postal services of South America, and a second conference was to have been called for 1916 to perfect the organization of an international postal bureau of the American Republics. Owing to the war the second conference was postponed indefinitely. The Uruguayan Government will announce the date and place after consulting the other interested countries.

The conference of 1911 agreed upon an international bureau, empowered to prepare conventions and to arrange their submission and the exchange of their ratifications, and, in general, to attend to the numerous administrative details that are certain to arise in an international union. The American Postal Union of Montevideo was intended to supplement and cooperate with the International Postal Union of Berne. In urging the establishment of this technical body on a permanent basis our delegation pointed out that while "each of our Governments must attend to its own affairs and guide its postal system on a rational basis in accordance with its own national needs" a permanent postal union could cope with the difficulties of transportation of the mails on land and sea which are due to the character and extent of our continent and which give rise to questions which rarely trouble the postal experts of Europe.

The commission recommended the formal adherence to the postal congress of 1911 and the "transformation of the South American Postal Union into an American Postal Union," further expressing the hope that the postal conference may be held soon.

While this Government was not represented at the postal conference of 1911, the Postmaster General of the United States recommends that the Post Office Department participate in the second postal conference, whenever called. It is to be expected, therefore, that these recommendations will be realized shortly, with much benefit to the American nations.

#### SIXTH COMMITTEE.

**Topics: VIII. International agreements on uniform labor legislation.**

**IX. Uniformity of regulations governing the classification and analysis of petroleum and other mineral fuels with reference to national development policies.**

#### TOPIC VIII.

The topics considered by this committee were proposed by the Uruguayan and Argentine Governments, respectively. With reference to labor legislation, His Excellency, Pedro Cosío, the minister of finance of Uruguay, pointed out the difficulty in improving the conditions under which productive labor is carried on and urged the need of insuring general knowledge of the principles of labor legislation. In order that America may be the "land of promise"

he insisted that it must defend the laborer from excessive hours, unfair wage conditions, and dangerous occupations. The workman and workwoman must be assured, too, that society will abandon them if they fall sick from overwork nor permit them to be reduced to starving or begging if they arrive at old age in poor circumstances, and, that, finally, society will find sure means of educating them and of aiding and encouraging them in their legitimate aspirations.

The commission was impressed by the general desire to cooperate more effectively in protecting and strengthening the laboring population of the Americas. As, however, an international labor convention is not practicable now, the commission could only recommend that each Government enact progressive labor and social welfare legislation and provide for systematic exchange of technical and statistical literature.

The Department of Labor of the United States and similar departments in Latin America might easily exchange all their publications; and the system could be extended so as to include all countries interested. The publication of the Pan American Union might possibly serve to make better known the work accomplished in this field in the United States and in Europe; and legislative and executive commissions, as well as organizations of the character of the American Society for Labor Legislation, will wish to cooperate with the Pan American Union. Thus, those countries whose economic and industrial conditions give sufficient promise of sustained public interest in this subject, may soon avail themselves of the excellent procedure devised by the International Labor Association for the conclusion of international labor agreements.

#### TOPIC IX.

The report of the Argentine delegation on the ninth topic emphasized the economic interest of the American Nations in their supply of mineral fuels. Recent Argentine legislation indicates an effort to establish a comprehensive national policy. The report closes with the following observations, which it is interesting to compare with views recently expressed in the United States:

If mines are owned by the State and leased to citizens or to foreigners for a limited or indefinite period, if public interest in the exploitation of these mines calls for an outlay of capital and of labor without reference to nationalities and if, on the other hand, it is universally recognized that whatever judicial theory may be adopted as to the ownership of this property, its complete economic development has a direct bearing upon the industrial progress of the continent, upon maritime traffic, and upon the well-being of the consumer classes, why can we not prepare an international agreement that will encourage an active exchange of views on the results achieved by each of our nations? Is there any advantage in making uniform our laws and administrative methods which are best calculated to secure the prosperity of each republic—that is to say, the prosperity of all America? If the answer be "yes" I can not but wonder why we exclude the regulation of mineral fuels from this beneficial uniformity especially when it is not a question of ignoring the peculiar circumstances, interests or sovereignty of any of our republics, but rather of stimulating development of the natural resources of all of them so as to facilitate the widest possible exchange and use of these resources and to furnish at the lowest rates the transportation required for such exchange.

The commission heartily agreed with Dr. Lobos, and in its resolution recommends that all the Governments take appropriate action to supply the section of commerce, customs, and statistics of the Pan American Union with the material necessary for the preparation of an authoritative and detailed report on the legislation of the American Republics with reference to the development of mineral resources. Greater uniformity of such legislation is to be aimed at. The report will study the technical methods of analysis and classification of mineral fuels officially in use and contain an authentic official record of the character and extent of the chief deposits of mineral fuels.

A similar aim is expressed in a resolution adopted by the Second Pan American Scientific Congress held in Washington, December 27, 1915, to January 8, 1916. Article 37 of the resolutions of this Congress recommends:

(a) A compilation be made according to a definite plan of the mining laws of the American Republics, not only in their original languages, but also in Spanish, Portuguese, French, and English translations, as the case may be, with a view to the reciprocal improvement of the laws of each of the American Republics.

(b) The several American Governments appoint a committee to consider the uniformity of mining statistics and to make recommendations to their respective Governments in order to systematize, simplify, and standardize such statistics.

As set forth in the commentary upon this resolution (pp. 121-126 of the final act of the Second Pan American Scientific Congress, Washington, 1916), there is much duplication in statistical work as well as a lack of uniformity in the data used by statisticians and analysts, and an international committee was suggested for the solution of this question. Similarly the scientific congress felt that slight improvement of the mining laws of the different countries could be hoped for unless a detailed compilation of these laws in all languages spoken in America could be put before those most interested and most competent to criticize.

Technical work of this character is both slow and expensive. It is doubtful whether the section of commerce, customs, and statistics of the Pan American Union can realize to the fullest extent the recommendations made at the Buenos Aires conference, but with the help of such an appropriate organization as the Pan American joint engineering committee it might accomplish much of real value. With the exchange of information and the more intimate knowledge on the part of all our nations of the most scientific and progressive measures adopted by any of them we may be not too sanguine in hoping for the conclusion of constructive international agreements of the character suggested by Dr. Lobos.

While other conferences have dealt with maritime transportation, the Pan American railway, or with postal facilities and cable rates, no previous international gathering has tried to arrive at a comprehensive and constructive public policy on these matters. The International High Commission was able to arrive at a concrete program of international cooperation in this fundamental group of subjects.

## SEVENTH COMMITTEE.

**Topics: X. Necessity of better transportation facilities between the American Republics.**

**XII. Telegraph facilities and rates; the use of wireless telegraph for commercial purposes.**

## TOPIC X.

The First Pan American Conference of Washington deplored lack of adequate steamship facilities (S. Doc. 174, 51st Congress.), and successive conferences deprecated the inaction of American Governments in this regard, declaring that only vigorous action on the part of any one of the American Governments was needed to secure the cordial cooperation of all of them. At the financial conference of Washington in 1915 this was the chief topic of interest. Equally sustained attention has been given to transportation from the beginning of the commission's work. While it was appreciated in each of the Republics the problem of transportation presents a particular aspect due to local needs and national policies, it was felt that the way would be clear for a definition of a general policy of international cooperation.

The sense of the entire commission seemed to be that on the United States had the resources adequate to carry out the great task of rendering the Western Hemisphere independent of Europe for its carrying trade. The resolution on this point reads:

That, inasmuch as the United States are at this time in a position to command superior resources in meeting the need of an international merchant marine, such cooperation as the resources of each country will permit ought to be encouraged by the other American nations. Whether this action takes the form of supplying or ships operated by their Governments or is based upon a transportation involving private capital, their cooperation should be of such a character as to assure the immediate and practical realization of a service imperative required by the economic situation of the continent.

Argentina had never hesitated, Dr. Lobos declared, in moving the adoption of the resolution, to supplement the insufficiency of her capital with an adequate outlay of national resources in order to assure economic security and the development of commerce. This was true, and no less emphatically, of the other Republics which face the same pressing problem.

The United States are to-day holding out to us the solution of the problem. It is but natural that they should have the right to select the most proper formula; it is equally natural that we should refrain from further action since the United States have elected to solve this problem in order to manifest their accurate appreciation of the conditions now existing in America and to promote the prosperity of the other American nations. \* \* \* The Committee on maritime transportation, in accordance with the resolution of the Fourth International Conference of American States, and bearing in mind present conditions, is convinced that the establishment of two steamship lines between New York and Valparaiso and intermediary points, on the one hand, and between New York and Buenos Aires and intermediary points, on the other, is a pressing need. The committee realizes, too, that the bill providing for an investment of \$50,000,000 by the Government of the United States in this project, receiving the approval of public opinion and of the several Governments, is a measure which in no sense precludes other Republics from receiving proportionate assistance in solving the problem. \* \* \* Extraordinary conditions call for extraordinary measures.

The Brazilian minister of finance, His Excellency Dr. João Pandiá Calogeras, supported the resolution, although he stated that he was not expressly authorized to speak on the subject of improved transportation facilities. He nevertheless felt it incumbent on him, for several reasons into which it was not necessary to enter, to say that Brazil to-day controls the greater part of the transportation between Brazilian ports and several portions of North and South America.

Any action taken by the conference to solve the serious transportation problem will find the situation in Brazil sufficiently advanced to allow the immediate undertaking of work. The present situation is so serious that I do not exaggerate when I say that Brazil and all the other American Republics are practically in the position of beleaguered towns, and we shall not hesitate to adhere to whatever proposals are advanced by the other delegates.

The proposal of the United States delegation, he said, had the most cordial approval of the Brazilian Government. He further believed that the terms of the committee report were such as to embrace any practical solution, not only that embodying two Pan American lines but also that suggested by the Chilean delegation.

The passage of the act creating the United States Shipping Board enables the United States Government to correct a situation that was rapidly growing worse; and once the shipping is available, it will diminish the danger of constantly higher rates between South America and the United States. These rules militate seriously against our manufacturers in the purchase of raw material which have long been available to European manufacturers at lower cost, because of the cheaper facilities for transportation. Naturally, it has been correspondingly difficult to compete with Europe in supplying Latin American markets. The effort of our Government to offer a remedy for this serious situation will no doubt contribute largely to the improvement of our commerce with Latin America.

The seventh committee dealt likewise with railway transportation. The completion of the Intercontinental Railway, connecting North and South America, is now more than ever essential to the successful development of North and South America with the completion of the Panama Canal and the impetus thereby given to trade. Since the second international conference of 1902 the permanent Pan American railway committee in Washington has directed the completion of the surveys necessary to link up various national railroads into the Intercontinental system. The constructive character of this undertaking, which was discussed for over 25 years, has been guaranteed by the hearty interest of men foremost in the industrial world of North and South America.

A resolution calls for the appointment of new engineering units by the permanent committee in Washington for the purpose of making "technical surveys and economic studies necessary to determine the route, the cost of construction, volume of trade, and probable revenue of the lines completing the Pan American Railway." It is unlikely that the cost of this technical survey would be great; and this section respectfully recommends that the permanent Pan American railway committee be requested to estimate the cost, and that the Congress be asked to appropriate the sum necessary to carry this work to completion. Only when the survey shall have been terminated can private capital be encouraged to undertake the task of building the connecting links of the Pan American Railway.



We further wish to draw attention to the fifth clause in the relation of this committee reading as follows:

That States contiguous to each other and traversed by international roads establish mixed boards to study the rates, railroad regulations, and customs agreements as may be required because of the international character of these lines.

The central executive council of the International High Commission will discuss this important matter with the several sections and endeavor to secure the establishment of the commissions recommended.

#### TOPIC XII.

The commission considered solely the general policy on telegraphic and radiographic communication, and formally approved the scientific study of these topics by the radiographic conference to be held in Washington under the joint auspices of the State and Navy Departments. All that the commission wished to examine was the commercial and legal side of these services, and the claim made by those operating them that all the reductions have been made that the volume of business will warrant at this time. Government policy on the ownership or operation of telegraph and radio telegraph companies was also open to discussion. While there has been an agreement among the American Governments that, for obvious reasons of security, the ownership of such companies should not pass into American hands, there has been a difference of opinion whether the ownership should be vested exclusively in governments or permitted to remain in the hands of individuals.

The desirability of a uniform international telegraph rate for the American Republics was urged by the Argentine delegation, who pointed out the efforts made by the Argentine and other Governments to secure uniformity of domestic rates. The domestic rates of Argentina have been extended by formal conventions (with Uruguay in 1899 and Chile in 1903) to some of her neighbors whenever they participate in the transmission of messages. While this system may entail losses, it was emphasized whenever the companies of more than two countries took part in the transmission of a message such losses would not be the primary consideration if they were controlled by their Governments. Nevertheless, a consistent basis must be found for the profitable transmission of messages over great distances, such a basis Dr. Echagüe, of Argentina, found in the "European system" established by the International Telegraph Convention of 1875; and he recommended the adoption of this system for land and water lines wherever possible.<sup>1</sup>

The United States section advised the reduction of telegraph rates and the extension of cable lines to serve regions now without service or with inadequate service; in dealing with the radiographic situation recommended safeguarding its control by the American Governments. Whether such control should mean more than regula-

<sup>1</sup> The European system establishes a single and uniform elementary transit rate and a single and uniform elementary terminal rate; these minimum charges, respectively 7 and 9 centimes, form the component parts of the total rate. In accordance with the system small countries—Belgium, Switzerland, Portugal, Luxemburg, and Roumania—are permitted to reduce the units composing this rate, respectively, to 3½ and 6 centimes, while large countries, such as Russia and Asiatic Turkey, have been allowed to fix rates as high as 24 and 30 centimes, respectively, because of obvious difficulties.

and involve actual ownership was a matter outside the scope of the section's knowledge. On the other hand, it was doubted whether the service now owned and operated by Governments for naval purposes could be profitably used for commercial traffic.

The commission incorporated the views of the Argentine and United States delegates in its recommendation, that a definite governmental policy be adopted looking to an international telegraph and cable rate convention, based on the European system. Furthermore, it is urged that wherever possible the Governments of America should control telegraphic and radio communication and refrain from granting new concessions. The chairman of the United States delegation pointed out that conditions in the United States were so distinct from those obtaining in other countries that these recommendations could not be considered to apply to the question of telegraphic communication in the United States. So far as Central and South America are concerned, the section feels that this recommendation expresses the view held in these Republics as to correct policy and governmental responsibility for the supervision of public utilities of vital importance for the promotion of national commercial interests. It hardly foreshadows an immediate action on the part of any Government, and merely emphasizes a spirit of vigilance and active participation in all matters of public interest. The great work performed during so many years by telegraphic companies organized in the United States for the improvement of facilities between here and Central and South America, has not been overlooked by the section, nor shall we fail to bear in mind our responsibility for securing the most equitable and satisfactory treatment of all interests. Now, as ever, these companies are responsive to the real needs of commerce, and it is to be recorded with much satisfaction that since the meeting of the commission not only press rates but commercial rates have been substantially reduced.

#### RESOLUTIONS PROPOSED AT GENERAL SESSIONS.

A number of resolutions were brought up on the floor during the course of the conference, to which reference may be briefly made in this place. Several of these matters were requests for future action by the commission. Dr. Eduardo Jiménez de Aréchaga proposed the holding of a special conference on the uniformity of maritime law and the law of marine insurance. The commission agreed that there might be advantages in undertaking an organized effort in this direction, and the subject will be taken up by the central executive council. Similar resolutions were presented with reference to the preparation by the International High Commission of agreements on the law of telegraphic drafts and remittances, and on the formation and operation of stock companies and the issue and circulation of their obligations. All three topics come properly within the range and scope of the commission's activities, and it is the hope of this section that under the guidance of the central executive council the views of most of the sections on these matters will have crystallized before the second meeting of the commission.

Other resolutions were adopted which, while somewhat less directly bearing upon the work of the commission, are significant of the wide

educational influence that such an international body must inevitably have. Dr. Guillermo Subercaseaux, of the Chilean delegation, proposed a resolution on an international bibliographical review "in view of the difficulties at present encountered in obtaining reviews published in certain Republics of America." Such a review would contain accurate bibliographical information such as the title, author, and date of publication, publisher's name, price, etc. The section learns with much pleasure of the proposed establishment of such a review under the direction of the Ateneo Nacional of Buenos Aires in consequence of a recommendation of the historical congress at Buenos Aires in July, 1916. To the request of the central executive council that every possible assistance be given this enterprise the United States section responds most heartily, and hopes that the Librarian of Congress and other directors of learned institutions will cooperate with those interested in the new review, so as to make it in the fullest sense Pan American.

The Uruguayan delegation proposed the establishment of permanent expositions of the products of the United States in the leading cities of South and Central America, as well as similar institutions in the United States for the permanent exposition of the products of Latin America. All of these institutions would be under the patronage of the respective Governments. The resolution was accepted by the chairman of the United States delegation and met with hearty approval of the commission. The section feels that a permanent exhibition of this character should be encouraged by official support; it would certainly serve to develop commercial relations between American nations.

The chairman of the United States section presented a resolution on the study of Portuguese, Spanish, and English in all public institutions of learning throughout the continent. Realizing that many years of patient propaganda will be required if we are to insure a practical study of these languages, this delegation felt that the mission might lend its sanction to the movement for more thorough instruction therein. The great interest that has recently developed in the United States in Spanish and Portuguese will be productive of great benefit to our commercial and financial relations, and we feel that it is incumbent upon the educational authorities to see that this interest not only shall not decline but that it shall act and increase. It was in this spirit that the recommendation was presented and adopted.

The last matter of this character with which the commission was concerned was a resolution presented by his excellency the minister of finance of Uruguay on the Second Pan American Financial Conference. Dr. Cosío's resolution reads as follows:

*Resolved*, That it is highly advantageous that a Pan American financial conference of the character of that held in Washington in 1915 meet every five years; that the next Pan American financial conference take place in 1920 in Washington, the exact date to be agreed upon subsequently among the various Governments, upon the initiative of the central executive council of the International High Commission; that the ministers of finance of all the countries of the American Continent be urged to attend, in view of the fact that the financial questions there to be discussed constitute the most important elements of these conferences, and in view, also, of the fact that the presence of these ministers is conducive to the more effective carrying out of the resolutions adopted.

Dr. Cosio declared that it would be a real check to the development of commercial relations if a second financial conference were not held. The financial conferences, he urged, should be held in Washington in order that the largest number possible of merchants and bankers of the United States could have an opportunity to mingle with the business men and financiers of Central and South America. The purpose of the financial conferences is distinct from that of the International High Commission. The latter is concerned with financial studies and legislative reform, while the former is a gathering of financiers and merchants for the facilitation of wider acquaintance and for general discussion of the important problems that are more concerned with trade and banking practice than with official action. The International High Commission would, of course, continue to maintain close connection with the conference, regularly reporting on the work accomplished and outlining its future plans; in the words of the chairman of the section in his address on this subject:

The work of the International High Commission will be the connecting link between the successive Pan American financial conferences which, for my part, I earnestly hope may become a part of the permanent policy of the American States. If such a financial conference shall be held every two years, with the International High Commission as the intermediate working body to carry into effect the conclusions of these conferences, we will no longer live in the realm of theories, but will make practical results of every conference certain.

The program of the financial conference would always be made up on the basis of careful consultation with the central executive council. On the other hand, the financial conference would, from time to time, find appropriate cause for suggesting new topics for the program of the commission. In view of these considerations, the commission heartily adopted the resolution proposed by Dr. Cosio.

The section wholly agrees with the words of the Secretary of the Treasury with reference to this resolution at the time of its presentation, that it "fits in with the general plan upon which we are proceeding. \* \* \* We shall be very happy to have another meeting of the Pan American financial conference at Washington, and as many meetings as you may wish to attend." As this is a matter officially within the province of the Secretary of the Treasury, the section as a whole does not consider itself authorized to make a definite recommendation. We desire, however, merely to record our sincere belief that great advantages will accrue from the holding of a second financial conference at an opportune time.

Respectfully submitted.

W. G. McADOO,  
*Chairman.*

JOHN H. FAHEY.  
DUNCAN U. FLETCHER.  
ARCH. KAINS.  
ANDREW J. PETERS.  
SAM. UNTERMYER.  
PAUL M. WARBURN.

The PRESIDENT,  
*The White House, Washington.*



## APPENDIXES.

### APPENDIX A.

ACT OF CONGRESS APPROVED FEBRUARY 7, 1916.

AN ACT To provide for the maintenance of the United States section of the International High Commission.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the appointment of the nine delegates by the Secretary of the Treasury to represent the United States in the proceedings of the International High Commission, to be held in Buenos Aires, Argentina, during the year nineteen hundred and sixteen, in accordance with the action of the First Pan American Financial Conference held in Washington during the year nineteen hundred and fifteen, pursuant to the provisions of an act of Congress, approved March fourth, nineteen hundred and fifteen, entitled "An act making appropriations for the Diplomatic and Consular Service for the fiscal year ending June thirtieth, nineteen hundred and sixteen," be, and the same is hereby, approved and confirmed; such delegates shall be known as the United States section of the International High Commission, and shall cooperate with the other sections of the commission in taking action upon the recommendations of the First Pan American Financial Conference; and the President is authorized to fill any vacancies that may occur in the United States section of said international commission.

For the purpose of meeting such actual and necessary expenses on the part of the United States section of the commission as may arise from its work and investigations, or as may be incidental to its attendance at the meeting of the said International High Commission, the sum of \$40,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Treasury, to be immediately available, and to remain available until expended.

### APPENDIX B.

LIST OF UNITED STATES DELEGATES AND THEIR COMMITTEE ASSIGNMENTS.

Hon. W. G. McAdoo, Secretary of the Treasury, chairman.	
John H. Fahey, Esq.	Hon. Andrew J. Peters.
Hon. Duncan U. Fletcher.	Samuel Untermyer, Esq.
Hon. Archibald Kains.	Hon. Paul M. Warburg.

#### COMMITTEE ASSIGNMENTS.

Committee on the establishment of a gold standard and on improved banking and credit facilities: Messrs. Kains and Warburg.

Committee on negotiable instruments and on conditional sales: Messrs. Untermyer and Warburg.

Committee on uniform customs regulations and classification of merchandise: Mr. Peters.

Committee on uniform regulations for commercial travelers and on arbitration of commercial disputes: Mr. Fahey.

Committee on patent, trade-mark, and copyright legislation and on postal facilities: Messrs. Fletcher and Untermyer.



Committee on uniform labor legislation and on the exploitation of n resources: Messrs. McAdoo and Peters.

Committee on transportation facilities and on telegraph and wireless munication: Messrs. Fletcher and McAdoo.

#### APPENDIX C.

ADDRESS OF HIS EXCELLENCY VICTORINO DE LA PLAZA, PRESIDENT OF T ARGENTINE REPUBLIC.

EXCELLENCIES AND MEMBERS OF THE INTERNATIONAL HIGH COMMISSION a very great pleasure to meet you here to-day, and on behalf of the Arg people to extend to you a most cordial greeting. We welcome you with ments of friendship and sympathy as representatives of the Republ America, to which we are bound by ties of blood or by considerations of s regard.

The mission on which you have come is a most gratifying one, in t affords us the opportunity to honor such distinguished guests. It is inter too, because of the important matters that will claim your earnest atten

It is, gentlemen, indeed comforting to our nobler sentiments that i midst of the conflict which is drenching Europe in blood and bringing s in is train, it should be granted us to witness this splendid gathering o representatives of young and vigorous nations. You meet to deliberate calmness on subjects designed to facilitate, coordinate, and strengthen, as possible, the mutual relations of the republics in the economic field ; all those activities of such vital necessity to their full development.

You are undertaking a vast plan of progress, harmony, and good will nations, the majority of which are descended from a common stock, and which are contributing their best efforts to the work in hand. The s Pan American congresses, the Pan American Union at Washington, the Pan American Financial Conference, and this International High Comm organized by the happy initiative of the Government of the United through the inspiration of the eminent statesman, the Hon. W. G. M. Secretary of the Treasury, all bear testimony to this fact.

The increasing complexity of modern life tends to extend industr commercial activities along lines heretofore unknown when human en had not reached the height of development it has now attained throug diffusion of knowledge and the advance of science. This fact holds o hope—and it is no idle dream—that you will find solutions consonant wi great purposes that animate your every action.

It is not out of place to recall here that the first Pan American cong awakened suspicion among the nations of Europe. They supposed th purpose of these gatherings was exclusive and that they tended to lin commercial relations of European powers. Other misgivings, as unfoun this, also arose, only to be at once dispelled.

Just as America has its own history, so it has its own common ide aspirations, its ties of blood, of government, and of liberty. What more n then, that, while not resorting to any exclusive policies nor attempting t an International law different from that of other nations, an effort sho made to harmonize all these conditions peculiar, in law and in fact, continent of America, as a means of securing the blessings of peace, frier and progress, which constitute the supreme longing of all cultured people

When I contemplate a gathering such as this, with representatives fr many different countries, I seem to hear a mysterious voice confirming m sentiment that the great destinies of America are fortunately not envelo the mists of hidden danger, but enlightened by noble ideas of justice an will.

Permit me, then, to felicitate you most warmly on the lofty and nobl poses of the mission you are about to undertake, inspired by sentime frank and loyal solidarity.

In reiterating my sincere welcome, gentlemen, I voice the hope tha labors will be fruitful in good results; and on behalf of the Argentin

in my own name I beg that you will convey to the nations and Governments you so worthily represent a most cordial greeting.

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#### APPENDIX D.

ADDRESS OF HIS EXCELLENCY FRANCISCO J. OLIVER, MINISTER OF FINANCE OF THE ARGENTINE REPUBLIC.

GENTLEMEN: At this solemn moment of formally opening our sessions I am not content to follow the parliamentary rules of the conference and use the title of delegates, but, voicing the sentiment animating us all, I beg you to permit me to address you as "Fellow citizens of America."

The sincere words of greeting of the President of the Republic make superfluous any further welcome to our country, for he has expressed the feeling of all Argentine citizens. It is, too, our earnest desire that the friendly relations now established will endure after the close of our sessions, and that your all too brief sojourn will not only fulfill the aims of this commission but will also leave grateful and lasting memories.

The solidarity of the Americas is daily assuming a more practical and definite shape. Following the footsteps of the first idealists, there came the Pan American congress which brought our nations in touch with one another in renewed efforts to direct their energies for their mutual advantage. But the soil was not yet ready to receive this new seed. Vexatious frontier litigation kept sister nations apart, methods of communication were ineffective and hazardous, and capital, that magic motor which turns the wheels of progress, was insufficient and timid.

The sky has now cleared, and territorial disputes have given way to equitable agreements. All the American Republics have accepted the principle of arbitration and have been able to bring to the task of their political and economic development the energies which they formerly employed in watching fancied enemies. The rapid accumulation of capital is now an established fact in our countries, and especially in that of our eldest sister, the United States of America. She was the first to complete her internal economic development and to be in a position to lend the creative power of her capital to others. She has now crowned her solid industrial organization with the Federal reserve act, substituting cooperation and centralized control of the credit resources of the Nation for a wasteful and uncoordinated banking system that almost resembled anarchy.

The liberal but vague aspirations of the first Pan American conferences prepared the way for the financial conference of Washington, which was the result of a new economic situation and of the need of directing the fraternal sentiments of the American nations along more mutually beneficial lines. But even these endeavors have embraced too extended a program, and a more rapid means of attaining effective economic union was sought. There was accordingly created, by virtue of a resolution of the First Pan American Financial Conference, the International High Commission.

While other forces labor to win for our beloved America the sacred palladium of the freedom of the seas and the maintenance of neutral rights, it is incumbent on us to clear the way for the economic union of America—that lofty conception hitherto unrealized because of the lack of physical means and the peculiar differences in the national and local legislation of our countries.

The creation of a merchant marine is a task that will require many years and the expenditure of enormous capital. But our great American Continent can no longer remain subject to the interruption of the means of transportation of its citizens and of the exchange of its products and ideas. To-day it is subject to the convenience and combinations of other peoples who have no share in its interests or purposes. If the present situation holds any lesson for us, it is the necessity that each American Republic shall develop as large a mercantile marine as its resources will allow, so as to cooperate fittingly in furnishing transportation for the products of our labor and for the goods which we need in our economic and industrial life. Each Republic will, of course, settle this problem as it deems best. Fortunately, however, the products of our wealthy America can be harvested at different seasons of the year; and this happy

circumstance will facilitate cooperation. Incidentally, we should look to the development of our fuel resources and to the unification of legislation on commercial paper and on customs regulations. We must not fail to strive for a uniform gold currency standard, nor ought we to overlook other every-day important factors such as banking facilities and uniform regulations for commercial travelers. In the winged Mercury of John of Bologna, art had already immortalized the essential attributes of commercial activity, youthful energy, prompt decision. But the conflicting national laws have gradually set up obstacles in the way of those whom we may call the boy scouts of commerce as we place our products in markets where they will be bought and where we can buy what we need; only thus shall we advance the cause of civilization. He tells us that the wings of Mercury have ever borne civilization aloft.

Other important matters will arise from our discussions, such as the organization of the consular service of each country; nor should we forget the question of the great intercontinental railway which received so much attention in the first Pan American congresses. This work has been realized in part and its importance has in no way been lessened by the opening of the Panama Canal, as the means for transportation by land and sea serve different interests and needs, and where these are common to both they complete and harmonize them.

Such are the principal problems that will be submitted to your learned consideration, and we sincerely trust that the deliberations of the International High Commission will result in unanimous action, so that your resolutions may be presented to your respective governments as the practical outcome of the work by all of them.

The several sections should be of a permanent character so as to continue the study of these and similar problems, and ought to keep actively in touch with one another; thus they will speedily secure the practical realization of the recommendations of this conference. The press, the lecture platform, literary propaganda will be powerful auxiliaries in this work.

Now, if this International High Commission can carry out even one fraction of its vast program, it will have done great work; in addition these meetings will contribute to American solidarity, because to know one another and esteem one another, and this mutual esteem and trust form the necessary medium for combined action.

Happily, our policy of Pan American solidarity may easily be realized because we have no groups subject to foreign allegiance, no territorial ambitions, no wars; we are our democracies prepared to embark on an armed struggle to add to the brilliance of any crown or dynasty. We have a common origin, our interests and aspirations are the same, our political institutions are cast in the same mold of the bills of rights of Virginia; and there seems little need for me to say that our aspirations for the political, economic, and cultural advancement of our peoples are based on the same fundamental principles.

It is both natural and just that we should endeavor to take advantage of these felicitous circumstances to develop still further the welfare of our peoples. Nobody can feel alarmed at this policy of American concord and cooperation, since it will redound to the equal benefit of all. Again, the moral and moral force presented by Pan American unity will not only be a stimulus in our economic progress, but it will also constitute one of the bulwarks of the rights of American Nations.

Before closing this address, I must relate an incident which shows the cordial feeling with which our people received the advent of the distinguished delegates from the American Republics.

Desirous of providing a place of meeting which would be worthy of the occasion of this importance, our chief magistrate requested the president of the senate to allow our sessions to be held in the chamber of that august body. As the senate is now in recess, its president communicated with all the senators who were absent from this city in their respective provinces, asking acquiescence in the request. All, without exception, not only gave courteous consent, but did so with expressions of enthusiasm for the work we are about to undertake. The present inaugural session calls for ample dimensions, and the honorable speaker of the house of representatives placed this hall at our disposal. But a difficulty arose. The law requires that on this very day there should begin the counting of the ballots cast yesterday by the citizens of the Republic for presidential and vice presidential elections. This hall is exclusively reserved for the use of the electoral board, so

of eminent members of the judiciary. Informed of the circumstances, the judges hastened to smooth over all difficulties in order that this session should be held in this hall. They have accordingly interrupted their important and delicate labors for this afternoon. It thus happens that by a happy coincidence the three constitutional branches of the government have united to render to the International High Commission the homage properly its due, because of its important functions and of the standing of its members.

I now declare open the session of the International High Commission.

#### APPENDIX E.

ADDRESS OF HON. W. G. MCADOO AT THE OPENING SESSION, APRIL 4, 1916.

MR. PRESIDENT, EXCELLENCIES, AND GENTLEMEN OF THE INTERNATIONAL HIGH COMMISSION: It is with intense satisfaction and pleasure that the members of the United States section of the International High Commission find themselves in this beautiful and hospitable city, the capital of the noble Republic of Argentina, to join their colleagues of the International High Commission in a discussion of the vital problems that have brought us together. We are fortunate both in the time and place of this meeting—in the time, because the necessity for the measures we are trying to secure was never more urgent; and in the place, because the progressive and stimulating ideals of the great people of Argentina have created a favorable atmosphere in which the objects of the commission's labors will be sympathetically nurtured and developed.

What is the reason for the International High Commission? It is the necessity for a continuing agency of a coordinating and directive character to accomplish, through the action of the several American States, the important reforms which for the past 25 years successive Pan American conferences have vainly recommended and to bring about unity of action concerning numerous questions which have been developed by the progress of the world and emphasized by the European war.

The first Pan American conference was held in Washington in 1889 and 1890, the second in Mexico City in 1902, the third in Rio de Janeiro in 1906, the fourth in Buenos Aires in 1910, and recently the Pan American financial conference in Washington in 1915. Upon reading the proceedings of these great conferences, all brilliantly intellectual and interesting, one is struck with the immense educational value of their work and the soundness of their conclusions and recommendations. Many of the most important subjects on the program of the present International High Commission were clarified and simplified by these conferences to such an extent that the labors of this commission will be greatly lessened. Our predecessors discussed arbitration of boundary disputes, the general doctrine of the gold standard, the necessity for uniformity of customs regulations and classifications of merchandise, uniformity of laws respecting bills of exchange, trade-marks, copyrights, and patents, banking facilities, improved ocean transportation facilities, the completion of an intercontinental railway connecting the Northern and Southern Continents. Some of the new questions we are to consider are those relating to bills of lading and warehouse receipts, arbitration of commercial disputes, stabilization of international exchange, exploitation of petroleum and mineral combustibles, improved cable facilities, reduced cable rates, and wireless telegraphy, the need for unifying protective legislation in behalf of labor and laboring classes. So that we are not entering altogether upon original work in discussions that are before us.

In spite of the highly educational work of these conferences, practical results have been small. After 25 years we have substantially the same problems; they are still unsolved; they remain a challenge to the constructive intelligence and enterprise of all the people of the American States.

What has been the chief reason for this failure? The answer seems clear. Not one of the conferences perfected an active organization under a central direction to continue the work in the intervals and fight unremittingly for the removal of the difficulties which have stood in the way of that wholesome and extensive development of Inter-American relations, commercial, social, and political, foreordained as the destiny of the American Republics.

Resolutions of bodies of able and brilliant men are inherently effective only when they arouse those tidal waves of human interest and enthusiasm which, by their very momentum, carry the issues to success. It is seldom that such

things occur. History records few instances of this sort, but it records many instances of achievement through persistent and intelligently organized effort.

The outbreak of the European war accentuated many of our problems and brought clearly home to the American Republics the danger of complete dependence upon the great European States for their economic development and commercial security. All of them, including the United States, faced at the beginning of the war possibilities of appalling disaster. That experience clearly shows the imperative necessity for closer relations between the American States themselves and a more enduring organization of their own life in order that they may work out their destinies, freed as far as possible from the dangers which constantly menace their economic development through European complications. It was essential in these circumstances that the American nations should take measures for their own protection; that they should reconstruct, as far as practicable, their commercial and financial relationships for the security of their own interests and the welfare of their people. It was not from any desire to take advantage of the misfortunes of the great nations of Europe, with which the ties of friendship and commercial intercourse have been so strongly developed. These ties must continue, not only because we desire it, but because we wish to serve Europe while we serve ourselves. To do this we must make ourselves so strong that when the smoke of battle has cleared and peace is restored to those stricken lands we may aid them as they have aided us in our time of need.

While these are our purposes, we should not be blind to the fact that economic changes of a revolutionary character must follow the colossal conflict now in progress and force readjustments of international relationships throughout the entire world. When this time comes the American nations must not be unprepared; they must begin now to shape their own future; they must take measures not only to secure their own interests, but to put themselves in position to relieve the heavily burdened nations of Europe of many demands they have heretofore made upon them. It stands to reason that the destruction of capital and property and life during this great war will leave the contending nations prostrated for many years. During the time of their recuperation they will be unable to play the important part in the economic development of the American States which they have played in the past. The noblest concepts of duty and friendship dictate that we should help them when the time comes to bind up their wounds and repair their losses. The attempt to organize the resources of the American States is conceived, therefore, in no selfish or unfriendly spirit. It is inspired by the highest motives of good will; it proceeds from a noble purpose to marshal their resources and make them in the highest degree available for the best service of mankind throughout the world.

It was in view of these weighty considerations and the necessity for early and positive action that the Pan American financial conference was called to convene in Washington in May, 1915. It was the firm resolve of those who directed that conference that a permanent organization should be created and charged with the duty of carrying into effect its conclusions and recommendations. This International High Commission, appointed by each of the American States, is the machinery devised by that conference for this purpose. The financial conference reaffirmed the necessity for action upon the various subjects which this commission is here to discuss, but left it to this commission to suggest the necessary laws and urge their enactment by the interested States.

The work of the International High Commission will be the connecting link between the successive Pan American financial conferences which, for my part, I earnestly hope may become a part of the permanent policy of the American States. If such a financial conference shall be held every two years, with the International High Commission as the intermediate working body to carry into effect the conclusions of these conferences, we will no longer live in the realm of theories, but will make practical results of every conference certain. The work of these financial conferences and of their adjunct, the International High Commission, is not of a diplomatic character. It does not, therefore, involve any conflict with the diplomatic organization of the different States. Its problems are not political; they are distinctively financial and commercial, and these are not primarily the subjects of diplomacy. It follows as an inevitable corollary that there is no conflict between the Pan American Union and the Pan American financial conference, and the International High Commission. I am sure that I express the views of each and all of you, when

I say that the Pan American Union is realizing the high purpose for which it was created in the most thorough and satisfactory manner.

The importance of its contribution to international relations and to the service of interests of the most diversified types can not be exaggerated. This useful and splendid union is but in the infancy of its career, and I am sure that its work, under the wise guidance of the diplomatic representatives of the Pan American States, will continue to serve in the highest degree the best interests of the American States in the field in which it labors.

The United States section of the International High Commission has been established by act of the Congress and the necessary funds have been appropriated to enable it to maintain its organization and do the work for which it was created. Presumably each country represented here has taken similar action with respect to its own commission.

How should the commission itself organize most effectively? If I may be permitted to suggest, I would say that each section should have a permanent chairman and secretary, with headquarters in some convenient city, preferably the capital of its own country. These various sections should be coordinated and directed through a central organization, consisting of a president, a vice president, and a secretary general of the International High Commission itself, whose headquarters should be in the capital of the country of which such president, vice president, and secretary general are citizens. This central organization should be charged with the general direction of the work and keep in constant touch with each section of the International High Commission. By this kind of cooperative effort we should endeavor to secure from the Governments concerned approval of the measures which may be agreed upon and recommended at the present session of the International High Commission.

In the light of past experience and present necessity surely such reforms as are possible ought to be accomplished now, if they can be accomplished at all. They are so manifestly in the interest and to the advantage of each one of the American States that a determined effort should be made to secure prompt and conclusive action. Why should we, from indifference or neglect, continue laws, regulations, or practices which operate to the detriment of our respective countries? Why should we maintain barriers in the way of proper development of our trade and commerce when, by a mere stroke of the pen, so to speak, we can destroy them? Why should we diminish, if we do not actually prevent, the prosperity of millions of our fellow human beings in the various nations of the Americas because we do not permit that fair play of economic forces which, if released, would promote the prosperity of all?

These objects can not be attained in short order. Their very magnitude and complexity involve patience, persistence, zeal, and determination. What we seek is not impossible, as some pessimists insist. We have the power to make the seemingly impossible possible, if we know what we want and are resolved to achieve it. Let us, therefore, gentlemen, devote ourselves with all of the energy, intelligence, and enthusiasm we can command to the benevolent tasks before us. Let us proceed with the unalterable determination to translate these conclusions into the law of our respective States. Let it not be said that we have failed, as our predecessors have failed, to secure the remedies after we have ascertained what the remedies ought to be. We have a great and inspiring opportunity to render a service of incalculable benefit to all of the nations of the Western Hemisphere—an opportunity that appeals to the imagination, thrills the blood, and ennobles the thought. Let us determine our program and go forward with the inflexible courage and high purpose of a San Martin, a Bolivar, an Artigas, an O'Higgins, a Washington, and success can not escape us.

Laws alone will not, of course, create commerce or bring prosperity, although laws alone frequently destroy commerce and prevent prosperity; but beneficent laws will encourage commerce and contribute to prosperity by creating the conditions under which the individual may work with security of life and property and engage in international trade without needless impediments. This being done, individual initiative and enterprise must always be relied upon as the chief factor to do the rest.

Trade between the peoples of the different nations of the earth rests upon the fundamentals of mutual confidence, good will, and respect. Nations, like individuals, find in the ties of friendship the best guaranty of peaceful and profitable intercourse. Happily the fundamental of friendship already exists

between the American states, and we owe it to ourselves to reinforce that friendship with laws so harmonious that the citizens of our respective countries may have the fairest and freest opportunity to cultivate the most intimate relations with each other.

When this is done North American capital in abundance will seek opportunity to assist in the development of your wonderful resources. I imagine that the assistance of North American capital in your development will not be regarded as harmful to your interests. On the contrary, will it not be a helpful and conserving influence, beneficial alike to Latin America and to European investors in Latin America, if your development shall not be arrested or retarded for want of adequate capital? It is because we wish to use the power and resources of our country to help our neighbors, and because by helping them to strengthen themselves we steadily approach the realization of that ideal of American unity which has been for generations the dream of statesmen of both continents, that we are striving to do what our President so nobly expressed in his speech to the Pan American financial conference in Washington, May, 1915, when he said, "We are not trying to make use of each other, but we are trying to be of use to one another." This is the spirit of our national policy; this is the very essence of international morality—the golden rule of international intercourse.

The problem of ocean transportation, to which the Argentine minister of finance has referred, is beyond doubt of paramount importance. For many years the American nations have blindly ignored their economic security, if not their physical safety, by depending almost entirely upon foreign ships for transportation of their deep-sea commerce. Now, when a great war involves the leading maritime nations upon whose flags they relied, they find themselves without the essential means of protecting their own interests. We must correct this situation. The American nations must quickly find the way of creating a merchant marine of ample proportions to secure forever their physical and economic safety. The completion of the missing links of the great intercontinental railway is also of supreme importance, and should be considered an indispensable feature of inter-American policy.

It is a significant and felicitous fact that the essential fundamental of friendship and mutual respect has always existed between the United States and the Latin-American Republics. With the exception of the War with Mexico in 1847, the great Republic of the north has been at peace with every Central and South American State from the beginning of their existence to the present time.

The United States has consistently and unceasingly manifested deep interest in the welfare of the Latin-American Republics. This found its first expression in the Monroe doctrine, enunciated by one of our great Presidents not only for the protection of the United States, but for the preservation of the struggling Republics of the Western Hemisphere in the days of their infancy.

More recently the Government of the United States has given fresh and convincing evidence of its friendly attitude toward and its high appreciation of the Latin-American States. In the unfortunate complications in Mexico we have accepted the friendly advice and assistance of the Republics of South America. It was the ambassadors of Argentina, Brazil, and Chile and the ministers of Bolivia, Uruguay, and Guatemala who, in response to the request of our Government, contributed so patriotically, unselfishly, and nobly to the effort to solve the Mexican problem with due regard to the rights of the nations and the interests of the people of suffering Mexico.

These notable events have given new point and importance to inter-American relations. They have served to make more convincing and clear the attitude of the United States toward all the nations of the Western Hemisphere. They have reaffirmed those noble sentiments of friendship expressed by our great President in his speech at Mobile in 1913, and have given new emphasis to his statement on that occasion that the United States "will never again seek one additional foot of territory by conquest." To this added force has been given by the recent declarations of our illustrious President and our distinguished Secretary of State in favor of mutual guaranties of the territorial integrity and political independence under republican forms of government of every nation of the American Continent.

With such guaranties we do not have to live in fear of each other; we do not have to suspect each other; we do not need to arm against each other,

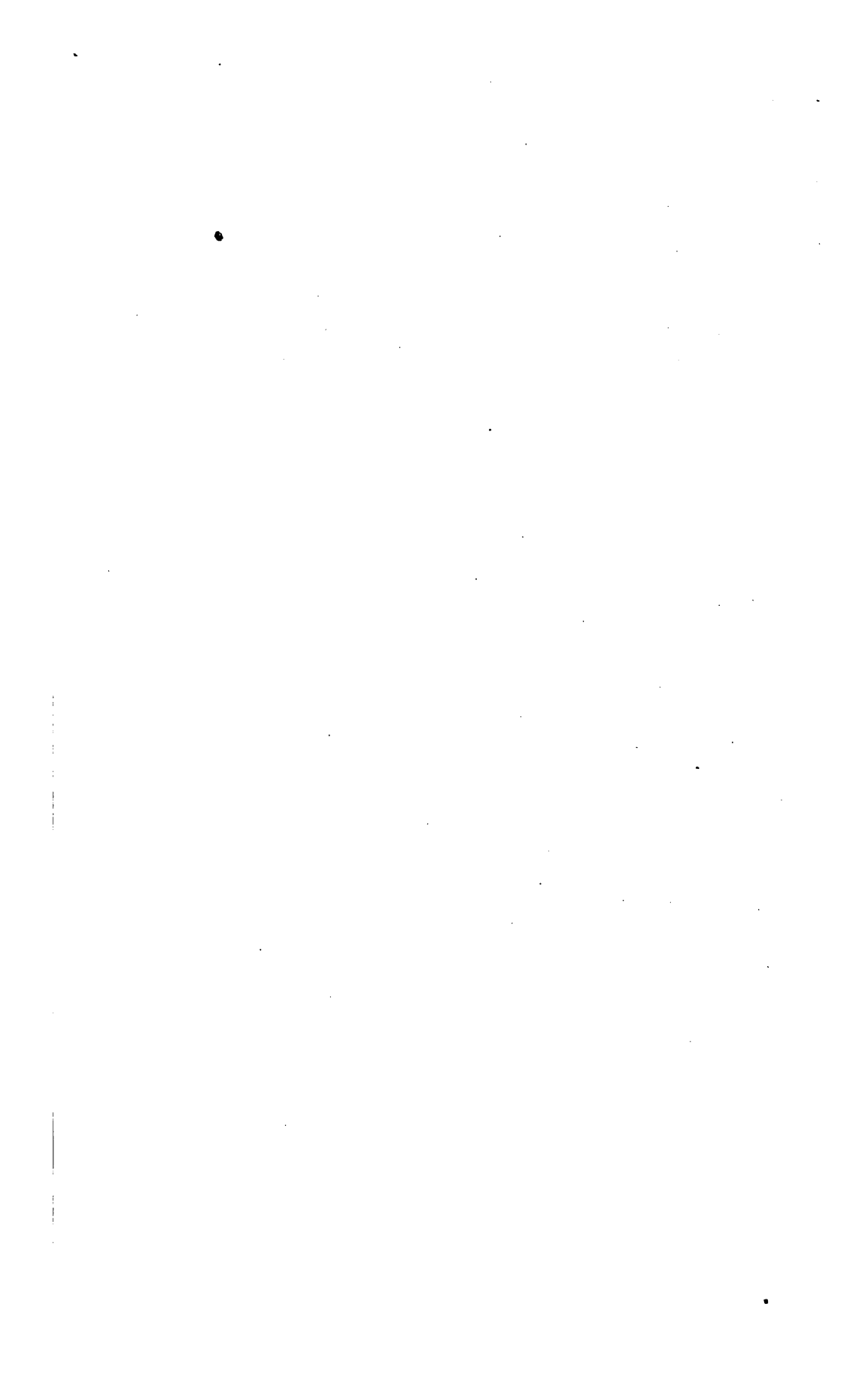


because so long as there is assurance against loss of territory or independence by any nation on this continent we can work out our destinies in peace, undisturbed by internal fear or external aggression. Contrast this with the state of affairs in unhappy Europe, where race oppressions, race hatreds, national wrongs, extending through the centuries, have created the disastrous conditions of mutual distrust and suspicion which have turned the leading nations into armed camps and precipitated the most colossal conflict in the history of time.

It would seem as if in the very wisdom of God the American Continent was created as a refuge where men of all nations might, in the spirit of true fraternity, build new States, dedicated to liberty, justice, and humanity, as an example to the world of the regenerative forces of mankind; where, freed from the passions and hatreds of centuries, they may demonstrate the ability of man to live in peace and amity, exemplifying the loftiest ideals of liberty and humanity, settling no disputes by the sword but by the light of God's justice alone, and developing a civilization which will fulfill the mission for which Christ died more than 1,900 years ago. God grant that our beloved America may realize this dream and stand, for time and eternity, as the exemplar and champion of international rectitude and honor.









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64TH CONGRESS }  
2d Session }

SENATE

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# INTERNATIONAL HIGH COMMISSION

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## AN APPENDIX

TO THE

REPORT OF THE UNITED STATES SECTION  
OF THE INTERNATIONAL HIGH COMMISSION  
ON THE FIRST GENERAL MEETING OF  
THE COMMISSION, HELD AT  
BUENOS AIRES, APRIL 3-12, 1916

(HOUSE DOC. 1788, SIXTY-FOURTH CONGRESS, SECOND SESSION)



MARCH 2, 1917.—Referred to the Committee on Printing

WASHINGTON  
GOVERNMENT PRINTING OFFICE  
1917

**SENATE RESOLUTION No. 386.**

**REPORTED BY MR. FLETOHER.**

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**IN THE SENATE OF THE UNITED STATES,**  
*March 2, 1917.*

*Resolved*, That the appendix to the report of the United States Section of the International High Commission on the first general meeting, at Buenos Aires, April 3 to 12, 1916, be printed as a Senate document.

**Attest:**

**JAMES M. BAKER, Secretary.**

JAN 28 1937

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## LETTER OF TRANSMITTAL.

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INTERNATIONAL HIGH COMMISSION,  
UNITED STATES SECTION,  
TREASURY DEPARTMENT,  
*Washington, D. C., March 2, 1917.*

SIR: I beg to submit the attached appendix of documents to the Report of the United States Section of the International High Commission to the President of the United States. The report itself was transmitted by the President to Congress, and printed as House Document 1788, Sixty-fourth Congress, second session.

The documents herewith submitted contain (1) lists of delegates and officials, (2) translations of the Journal of Sessions, and of the memoranda studied at the meeting of the International High Commission in Buenos Aires, April 3 to 12, 1916.

Respectfully,

L. S. ROWE,  
*Secretary General, United States Section.*

HON. DUNCAN U. FLETCHER,  
*United States Senate, Washington.*



APPENDIX TO REPORT OF UNITED STATES SECTION OF  
THE INTERNATIONAL HIGH COMMISSION ON THE FIRST  
GENERAL MEETING OF THE COMMISSION IN BUENOS  
AIRES. (HOUSE DOC. 1788, 64TH CONG., 2D SESSION.)

REPORT OF THE PRESIDING OFFICER, DR. FRANCISCO J. OLIVER.

BUENOS AIRES, *July 9, 1916.*

His Excellency VICTORINO DE LA PLAZA,  
*President of the Republic.*

SIR: The International High Commission held its first general meeting in this city from April 3 to 12 last. After completing the initial task of classifying and assembling the records, I now have the honor to hand your excellency a copy of the proceedings containing the resolutions adopted; these will be submitted to the governments participating in the conference.

In May, 1915, there was held in Washington the First Pan American Financial Conference for the purpose, as set forth in the diplomatic and consular appropriations act of March 4, 1915, of "establishing closer and more satisfactory financial relations between the countries of Central and South America and the United States." In response to this invitation, 43 Latin American delegates attended, while the United States was represented by over 200 leading citizens, among whom were high Government officials, prominent bankers and business men. To a resolution unanimously adopted at this financial conference the International High Commission owes its legal status.

Strictly speaking, this gathering partook more of the nature of a conference than of a congress, and it is in fact so termed in the bill to which reference has already been made. This happy initiative brought together leaders of the banking and business worlds of America; illuminating reports on the conditions and need for new capital in the participating countries were submitted, and the attention of the United States business men was focussed on the other nations of the continent. It was thus hoped that United States capital, which has only within recent years begun to seek an outlet abroad after having contributed so effectively toward the stupendous industrial and commercial growth of the great Republic of the North, might be brought into touch with the immense undeveloped resources of the other American nations.

It was soon realized that one of the greatest obstacles toward closer cooperation and harmony lay in the diversity of law, which underlay the expansion of all commercial and financial relations. A committee was accordingly named to consider the matter and to suggest the best means of harmonizing the laws of the several American Republics.

This committee's report was unanimously approved. It provided that each country should name a section of nine members, respectively, under the chairmanship of the minister of finance or secretary of the treasury. Each national section was to study its domestic, economic and financial legislation in an effort to harmonize it

with that of the other Republics. On the completion of this preliminary work, delegates were to be appointed to attend the first general meeting of the commission. At the same time a list of subjects was drawn up, to which, however, additions might be made; subsequently Buenos Aires was selected as the place of meeting.

This was set for April 3, 1916. On that day there assembled in this city representatives from all the American Republics, with the single exception of Mexico, which, though sympathizing with the movement, was unable for well-known reasons to send delegates. In the case of the Dominican Republic, its delegates were owing to unforeseen circumstances delayed, and did not arrive until after the close of the sessions.

On the afternoon of the opening day, a formal session was held in the hall of the Chamber of Deputies, at which your excellency delivered an address of welcome on behalf of the Argentine people; after this official ceremony, the work of the conference proper was begun. A complete list of delegations will be found in the volume of proceedings, as also the program as finally approved.

Your excellency will doubtless remark the splendid achievement in the matter of uniform legislation on bills of exchange and other negotiable paper. The several reservations contained in The Hague Convention and Rules of 1912 have been disposed of; and if the recommendations of the commission on this topic are carried into effect by the Governments participating in the conference, as is to be expected, the solution of a most important matter will have been reached, which would in itself more than justify the meeting.

The arbitration of commercial disputes, which received unanimous indorsement, has already been put into effect by the convention entered into between the Chamber of Commerce of Buenos Aires and the Chamber of Commerce of the United States. It is reasonable to hope that this agreement will serve as a model for similar conventions between other American nations.

The almost prohibitive license fees imposed by certain national and State authorities have constituted a serious obstacle in the way of fostering trade. I am to-day submitting to your excellency a bill to be presented to Congress, drafted along the lines recommended by the International High Commission.

In the matter of uniform classification of merchandise to facilitate commercial transactions and furnish a basis for foreign trade statistics, certain general principles have been laid down which should bring about this desired result. A careful study of this subject was made, as well as of customs regulations, consular certificates, and invoices and port charges, and much clarity obtained in these intricate matters.

Finally, in its anxiety to find a satisfactory solution for this important subject, the International High Commission recommended the holding within the not too distant future of an international conference of specialists on this topic, at which a conscientious study would be undertaken of all the existing laws and regulations. In this way it is hoped to attain that degree of uniformity which will promote the commercial relations of the peoples of the American Continent.

An agreement for common action was reached on the topics of postal rates and wireless communication. As in the preceding case, the commission felt that the best results would be obtained through

expert opinion; it hence recommended the holding of such a conference.

The establishment of a common monetary standard is a matter of the greatest importance to this continent. Any change in the monetary system of a country calls for long years of study because of the many interests involved. It is not surprising, therefore, that an international gathering can not weigh the peculiar conditions obtaining in each country nor remove the obstacles in the path of any settlement of this thorny question; it must accordingly confine itself to outlining a general policy to be followed by all American Republics in any future action in this field. The United States already enjoy stability of currency, and the volume of their trade and banking operations has made their money familiar throughout the world. The majority of the other American Republics have not yet given definite form to their monetary standards. In this state of affairs, the committee believed that the adoption of a money of account, equivalent in weight and fineness to one-fifth of the United States gold dollar, would furnish a common denominator for statistical purposes and a new standard to be later adopted in the monetary legislation of the several countries. This recommendation is deserving of very careful consideration, as it may well form the basis for the solution of this vital problem.

The present European war has shown that whatever nation has sufficient transportation facilities at its disposal is in a position to control trade, fix rates, and in a word decree the prosperity or ruin of the producer. The lesson has been a hard one, which we should not fail to turn to account. This topic, however, involves capital and cooperation, and the recommendation adopted covers these particular points.

The Final Act, comprising all the resolutions adopted, contains other important recommendations which are self-explanatory.

What significance then for the American Republics has this first general meeting of the International High Commission?

The policy of Pan Americanism dates back many years. The first conference, which met in Washington in 1889, endeavored to carry out Blaine's hope to assemble delegates of the American Republics to discuss the best means to insure the peace of America. The successive conferences of Mexico City, Rio de Janeiro, and Buenos Aires took up several other topics without, however, reaching any concrete results. They, furthermore, lost much of their momentum through the lack of a continuing body especially charged with working for the adoption of the resolutions.

The most successful step taken by these conferences was the creation of the Pan American Union, whose director general, Hon. John Barrett, that indefatigable apostle of Pan Americanism, has made the American nations known to one another and to Europe through the medium of the Bulletin of the Union, and has attained a measure of success which would have been impossible with the expensive and isolated propaganda of the several countries. The Pan American Union represents the consummation of a definite organization which, after many years of varied efforts, is being slowly outlined.

The First Pan American Financial Conference at Washington confined its labors to economic and financial problems and created the International High Commission to work for uniformity of law and of

action by the American Republics in the economic and financial fields, where many problems press for immediate solution.

The commission has in turn named a central executive council, with residence in Washington, as the directive body to bring about coordinated and continuous action.

The proposed conferences on customs regulations and telegraphic and postal communications will seek to find a satisfactory solution of these problems, while it will be incumbent on the Governments interested to translate these resolutions into legislative action. The method of procedure is hence clearly outlined. From the merely declaratory conferences on political subjects, on problems in the fields of finance and international law we pass to the Financial Conference of Washington, which was largely also declaratory. From this latter there emanated the International High Commission, charged with bringing about uniform legislation in the fields of commercial law and finance. This commission will undoubtedly furnish projects of laws on technical matters which will form the basis for subsequent uniform legislation.

The agreement between the Chilean and Argentine delegates as to the Transandine Railway shows how a gathering of this nature may be made the occasion for the settlement of questions of a different nature pending between certain of the countries represented on the commission, and thus contribute to that general harmony which is the aim of all Pan American gatherings.

The tendency, already manifest, toward restricting free competition as a basis of future trade relations should cause no alarm to the American nations as it behooves the national sections of the International High Commission carefully to consider the consequences which this economic policy may bring to the countries of this continent.

The importance of the aims and achievements of the commission is unquestionable when viewed from the standpoint of the results already accomplished. But the first general meeting of the commission at Buenos Aires brought into evidence the sympathy and solidarity existing between the American Republics and the manifest desire to cooperate in such common action as shall assure the greatest good to their respective peoples.

Neither during the course of the sessions nor at the committee meetings did the slightest difficulty or friction arise; nor was the susceptibility of any individual member or of any delegation in any way hurt. The spirit of cordiality which animated the assembly in which all the American delegations, *pares inter pares*, ratified their solidarity of interests, their reciprocal esteem and respect, and their firm purpose to cooperate toward the common good, gives rise to the belief that just when the Old World is engaged in a mortal struggle there is being evolved in the New World a federation of all the American peoples.

I have the honor to renew to your excellency the assurances of my highest consideration and respect.

FRANCISCO J. OLIVER.

## REPORT OF THE SECRETARY GENERAL, DR. EMILIO HANSEN.

BUENOS AIRES, *May, 1916.*

SIR: I have the honor to submit a report on the work accomplished at the first general meeting of the International High Commission and by the national section since its constitution down to the adjournment of the conference on April 12 of the present year.

The national section was created in pursuance of a decree of the department of foreign affairs on September 15, 1915. It was constituted under the chairmanship of your excellency as minister of finance and with the following membership: Dr. Ricardo C. Aldao, Dr. Eduardo L. Bidau, Dr. Alfredo Echagüe, Dr. Eleodoro Lobos, Dr. Leopoldo Melo, Dr. Norberto Piñero, Dr. Manuel M. Iriondo, and Messrs. Samuel Hale Pearson and Luis E. Zuberbühler, with the undersigned as secretary general. The act creating the section charged it with the study of uniform legislation on bills of exchange and other important topics.

The office of the secretary general of the International High Commission at Washington, of which Dr. L. S. Rowe was acting secretary general, was charged with communicating with the several national sections in the preparation of all details relating to the meeting of the commission, which was to convene in this city in the following November. In compliance with this mandate, the acting secretary general forwarded to the Argentine section, as well as to the other national sections, a tentative list of topics to be discussed at the meeting.

The Argentine section had hardly been constituted when a communication was received from Washington suggesting that, in view of the brief time at the disposal of the several sections to prepare adequately for the task, the meeting be postponed from November to April 3. On the receipt of a favorable reply from the Argentine Government the acting secretary general communicated this decision to the countries concerned.

Three months prior to the convening of the conference the Argentine section requested from the other national sections an exchange of ideas as to the topics to be taken up at the forthcoming conference. At the same time a formal invitation was extended to the ministers of finance of the American Republics, pointing out the special satisfaction the Argentine Government would feel in welcoming such distinguished guests. The Ministers of Finance of Brazil, Chile, Ecuador, and Uruguay, and the Secretary of the Treasury of the United States were able to accept the invitation, while all the other ministers regretted their inability to be present, owing to pressing official duties.

From January of the present year the organization of the conference was centralized in the office of the secretary general of the Argentine section. The formal invitations to attend the conference were transmitted through the department of foreign affairs, which also took charge of a large portion of the official correspondence.

At the suggestion of the national section, the Argentine Government arranged that all attending delegates should be the guests of the nation, and this fact was promptly brought to the notice of the respective Governments. The invitation was accepted by all the American Republics, with the single exception of that of Mexico,



which although in sympathy with the idea was unable to carry out its wishes in the matter owing to the lack of adequate means of transportation caused by the war. This same reason was responsible for the fact that the Guatemalan delegation and one of the Nicaraguan delegates arrived after the sessions had begun; while the delegate from the Dominican Republic was still more unfortunate in being delayed until after the conference had closed.

The delegations from the United States of America, Brazil, Guatemala, Haiti, Panama, and Venezuela came down the east coast; and those of Bolivia, Chile, Costa Rica, Cuba, Ecuador, Nicaragua, and Salvador chose the west coast route, landing at Valparaiso and proceeding across the Andes. The Paraguayan and Uruguayan delegations, owing to the proximity of these countries, experienced no difficulty in arriving. The Republics of Colombia, Honduras, and Peru were represented by officials and leading citizens resident in this capital.

The conference was accordingly inaugurated with the presence of delegates from all the American Republics, except the Dominican Republic, Guatemala, and Mexico; the inaugural session was attended by sixty-six representatives which number was later increased to seventy-three.

The United States delegation made the journey on a cruiser which, after dropping the members at Montevideo, proceeded around the Straits of Magellan. The Argentine Government accordingly sent a warship to escort the river steamer on which the delegates were arriving to our shores and named a committee of members of the national section, composed of Messrs. Aldao and Pearson, to welcome them. The assistant secretary of the Argentine section, Señor Agustín Muñoz Cabrera, was sent to Mendoza to receive the delegates arriving over the Transandine Line, and the governor of the Province of Mendoza was requested to extend them a cordial welcome.

The first delegations to arrive were granted a private audience by the minister of finance in his capacity as chairman of the Argentine section, but this procedure was not possible in the case of those arriving on the very eve of the conference.

The list of topics, approved by the Argentine section and communicated to the adhering countries, comprised the ten subjects submitted by the office of the Acting Secretary General at Washington, with three topics added by this section.

The program as finally approved was as follows:

1. Establishment of a gold standard or gold exchange standard.
2. Negotiable instruments in international trade; bills of exchange; checks; bills of lading; warehouse receipts.
3. Classification of merchandise; customs regulations; consular certificates and invoices; port charges.
4. Uniform regulations for commercial travelers.
5. Patent, trade-mark, and copyright legislation.
6. Reduction and uniformity of postal rates; improvement of money-order and parcel-post facilities.
7. Extension of the process of arbitration for the settlement of commercial disputes.
8. International agreements on uniform labor legislation.
9. Uniformity of regulations on the classification and analysis of petroleum and other mineral fuels with reference to national policy in the development of natural resources.

10. Necessity of better transportation facilities between the American republics.
11. Banking facilities; extension of credit; financing of public and private enterprises; stabilization of international exchange.
12. Telegraph facilities and rates; the use of wireless telegraphy for commercial purposes.
13. Uniformity of conditional sales and chattel mortgage legislation.

The Argentine section likewise drafted a body of rules of procedure. These rules divided the work of the conference into seven committees, on two of which, at least, each delegation was to be represented. The Argentine section assigned the topics among its members in ample time to allow of the preparation of memoranda; the same members represented the Argentine section on the several committees.

There follows a list of topics with their committee distribution:

*First committee:* Topics 1 and 11.

*Second committee:* Topics 2 and 13.

*Third committee:* Topic 3.

*Fourth committee:* Topics 4 and 7.

*Fifth committee:* Topics 5 and 6.

*Sixth committee:* Topics 8 and 9.

*Seventh committee:* Topics 10 and 12.

It had been hoped to hold the sessions in the hall of the Chamber of Deputies, but this had to be foregone when it was learned that the electoral board would meet in this hall for the purpose of counting the ballots cast in the recent national election on the same day as that set for the opening session. In view of this the use of the Senate Chamber was requested, and to this request the distinguished body not only acceded with courtesy but placed at the disposition of the conference the full suite of its committee rooms. The conference was thus able to dispose of ample space both for committee purposes as well as for the labors of the office of the secretary general.

The electoral board was kind enough to anticipate the hour of its preliminary meeting in order that the formal opening session of the conference might be held in the hall of the Chamber of Deputies. All subsequent sessions were held in the Senate Chamber. A reception committee, composed of the mayor of Buenos Aires, Dr. Arturo Gramajo, Dr. Luis Ortiz Basualdo, and Dr. Arturo Z. Paz was appointed by the Government to see that every courtesy was shown the distinguished guests and that no detail looking to their comfort was lacking.

An informal preparatory meeting was held on the morning of April 3, the day set for the formal opening session, with a view to getting the delegates acquainted with one another and effecting an exchange of ideas on the work of the conference.

At this meeting the body of rules drafted by the Argentine section was considered and a committee composed of Messrs. Bidau, Pandiá Calogeras, Fletcher, Grisanti, Izquierdo, and Pradel, was appointed to report on it. A motion was likewise presented for the election of a second secretary general to assist the undersigned in the duties of his office. No action was taken on this motion until after the approval of the report of the committee on rules.

The formal opening session was held at 3 o'clock on April 3 and was presided over by the President of the Republic who delivered an address of welcome on behalf of the Argentine nation. Responses were made by each chairman of delegation.

The International High Commission then went into session under the temporary chairmanship of the minister of finance of Argentina as chairman of the Argentine section. On motion, this temporary appointment was unanimously made permanent.

Later in the same day the delegations attended a reception tendered by his excellency, the President of the Republic, at the National Palace.

The official list of topics was still further increased by the addition of the new subject of uniformity of sanitary regulations which was assigned to the third committee. The topics were referred to the several committees who in turn reported to the full commission. In addition, several resolutions were considered in committee, submitted and approved in plenary session.

On the following morning the regular sessions began; the report of the committee on rules was adopted, the committees appointed, and the congress was in full swing.

The committee on resolutions is an outgrowth of the committee on rules and its mission is to coordinate and correlate all the work of the conference, with the right to clarify all ambiguities, harmonize apparent contradictions, and in general revise all texts, so as to present a harmonious and logical whole. On the day following the adjournment of the conference it was apparent that several members of this committee would be unable to remain and complete the task entrusted to it. At a subsequent meeting, therefore, at which all the delegations were represented, the minister of finance of Uruguay, Dr. Cosío, as a tribute to the skill with which the Chairman had presided over the deliberations of the conference, proposed that the final draft of the resolutions should be entrusted to him; this motion met with a gratifying reception and was unanimously adopted.

I shall close this report with a brief sketch on the organization and procedure of the conference and of the office of the secretary general.

Regular parliamentary procedure was followed, namely, the reading of the minutes, unfinished business, and then the regular order of the day. All motions had to be seconded; delegates were required to rise when addressing the meeting, and all voting was by yeas and nays, unless otherwise expressly provided. The secretary general called the several delegations in alphabetical order and their votes were registered as given. The chair then announced the result of each ballot. The reading of the minutes was dispensed with in the last sessions owing to lack of time. As far as possible all committee reports, orders of the day, etc., were translated into English, French, and Portuguese, printed and distributed among the delegates; all publications were sent to the residences of the several delegates or delivered personally prior to the meeting. Stenographic reports of the sessions were printed and distributed in Spanish after submission to the several speakers for their approval. It was found to be a physical impossibility in the short time at our disposal to translate these reports into any one of the foreign languages authorized by the conference.

The rules had provided for the election of a second secretary general to assist the undersigned in his arduous duties. There had been general assent to the suggestion that one of the assistant secretaries of the United States delegation should be named to this post, as a tribute to the initiative of the United States Government in calling the First Pan American Financial Conference and in view of the experience thus acquired, experience which would be exceptionally valuable because of the novelty and importance of this gathering. The United States delegation, however, declined this honor, paying at the same time wholly unmerited compliments to the undersigned, who takes this opportunity to express his thanks to all the delegations for the gratifying support given to the motion.

It is my pleasant duty to bear testimony to the efficiency and assiduity with which the assistant secretary, Señor Agustín Muñoz Cabrera; the secretary general in charge of the committees, Señor Julio Correa Luna; the diplomatic aid, Señor Leguizamón Pondal; the chief of the stenographic service, Señor Columba; the first assistant to the secretary general; and the chief of the file and publications division, Señor Carrasco; as also all the other subordinates collaborated in their several assignments. The labors of the office of the secretary general continued uninterruptedly from the eve of the formal opening session to two or three days after adjournment; the work started at 9 a. m. and continued to a late hour at night and on not a few occasions beyond midnight. Each member of the staff strove to surpass the others in expediting the large volume of work entailed by the conference.

The Remington Typewriter Co. installed at its own expense an office for extraordinary stenographic service, thoroughly equipped in every way, to attend to the special needs of each delegation; a not inconsiderable portion of the stenographic service of the several committees was performed by this bureau. It is my pleasure to testify to the efficacy of this service and to express my deep sense of obligation for this generous contribution to the cause of Pan Americanism.

The several printing offices charged with publishing the memoranda and other documents for the conference put forth every effort to avoid the delays inherent in work executed under such pressing conditions.

The office of the secretary general was divided into three sections: that of the secretary general, that of the assistant secretary general, and that of the committees. The first named had charge of all matters pertaining to credentials, minutes and records, translations and the publication and distribution of documents. To the office of the assistant secretary general was intrusted all matters of diplomatic protocol, entertainment, and distribution of invitations. The office of the committee secretary was charged with all matters pertaining to the delegation memoranda and committee reports.

The staff of the three sections was as follows:

In the office of the secretary general—one chief clerk, four clerks, six stenographers, three typists, one English interpreter, one French, two English, and two Portuguese translators, and the chief of the publication section.

The office of the assistant secretary general had the following personnel: The assistant secretary general, the diplomatic aid, two clerks, and two typists.

The office of the committee secretary comprised one secretary general, seven committee secretaries, seven typists, and one English interpreter.

All mail and messenger service was performed by the Senate personnel, assisted by special postal clerks and messengers furnished by private concerns. A report was prepared and submitted to this office by the assistant secretary general, Señor Agustín Muñoz Cabrera, giving a detailed account of the way these several services were performed.

In addition to the general work of assembling, translating, printing, and distributing the proceedings, with the attendant communications to the several sections, the attention of this office has been directed to the following matters:

The motion submitted by the Brazilian delegate, Dr. Inglez de Souza, in which a period of four months is given each national section to advise this office as to the exact status of the ratification of the Hague Convention of 1912 on bills of exchange; the report of the fifth committee on trade-mark, copyright, and patent legislation, granting a term of four months in which each section should advise this office as to the ratification of the conventions adopted at the Fourth International Conference of American States.

On the motion of the Brazilian delegation, a committee composed of Messrs. Ayala, Melo, and Villazón was named to prepare an authorized Spanish text of the Hague Convention on bills of exchange, which report was to be submitted within four months. Finally, there is in preparation the authoritative text of all resolutions adopted at the meeting, the revision of which had been intrusted to the presiding officer, Dr. Francisco J. Oliver.

Trusting that this report will merit your approval, I have the honor to be, sir,

Your most obedient servant,

EMILIO HANSEN,  
*Secretary General.*

#### THE PERSONNEL OF THE DELEGATIONS.

##### UNITED STATES OF AMERICA.

*Chairman:* Hon. W. G. McAdoo, Secretary of the Treasury.

JOHN H. FAHEY, Esq., Honorary Vice President of the Chamber of Commerce of the United States.

Hon. DUNCAN U. FLETCHER, Senator from Florida and President of the Southern Commercial Congress.

Hon. ARCHIBALD KAINS, Governor of the Federal Reserve Bank of San Francisco.

Hon. ANDREW J. PETERS, Assistant Secretary of the Treasury.

SAMUEL UNTERMYER, Esq., of the New York Bar.

Hon. PAUL M. WARBURG, Member of the Federal Reserve Board.

*Secretaries:* Dr. CONSTANTINE E. MCGUIRE, Acting Secretary General; Mr. J. BROOKS B. PARKER, Assistant Secretary General; Dr. G. A. SHERWELL; Mr. H. N. BRANCH; Mr. THOMAS A. GRAY; Mr. CLAUD DE BAUN; Mr. SAMUEL J. KATZBERG.

*Naval Attachés:* Dr. EDGAR THOMPSON, Lieut. E. C. S. PARKER.

ARGENTINE REPUBLIC.

*Chairman:* Dr. FRANCISCO J. OLIVER, Minister of Finance, Professor of Finance, University of Buenos Aires.

Dr. RICARDO C. ALDAO, Ex-Minister of Finance of the Province of Buenos Aires, Ex-President of the Banco de la Provincia, and Delegate to the First Pan American Financial Conference.

Dr. EDUARDO L. BIDAÜ, Vice Rector of the University, Dean of the Faculty of Law, Delegate to the Third and Fourth International Conferences of American States.

Dr. ALFREDO ECHAGÜE, Chairman of the Budget Committee of the House of Representatives, Ex-Minister of Finance of the Province of Buenos Aires.

Sr. SAMUEL HALE PEARSON, Director of the Banco de la Nación and Delegate to the First Pan American Financial Conference.

Dr. MANUEL M. DE IRIONDO, Ex-Minister of Finance, President of the Banco de la Nación.

Dr. ELEODORO LOBOS, Ex-Minister of Finance.

Dr. LEOPOLDO MELO, Member of Congress, Professor of Commercial Law in the Faculty of Law.

Dr. NORBERTO PIÑERO, Ex-Minister of Finance.

Sr. LUIS E. ZUBERBÜHLER, President of the Chamber of Commerce of Buenos Aires.

*Secretaries:* Dr. EMILIO HANSEN, Ex-Minister of Finance, Secretary General; Dr. AGUSTÍN MUÑOZ CABRERA, Secretary to the Minister of Finance, Assistant Secretary General.

BOLIVIA.

Dr. CARLOS CALVO, Ex-President of the House of Representatives, Minister of Public Instruction, Member of Congress.

Sr. JOSÉ LUIS TEJADA, Member of Congress.

Dr. ELIODORO VILLAZÓN, Ex-President of Bolivia, Envoy Extraordinary and Minister Plenipotentiary from Bolivia to Argentina.

Sr. JORGE SÁENZ, President of the Board of Directors of the Banco Nacional of Bolivia.

BRAZIL.

*Chairman:* Dr. JOÃO PANDIÁ CALOGERAS, Minister of Finance.

Dr. HERCULANO MARCOS INGLEZ DE SOUZA, Professor of Legal Science.

Sr. CUSTODIO DE ALMEIDA MAGALHAES, Banker.

Sr. JUAN FRANCISCO DE PAULA E SILVA, Customs Inspector.

*Secretaries:* Dr. RAUL DUNLOP; Dr. LOURIVAL DE GUILLOBEL, Secretary of the Brazilian Legation in Buenos Aires.

CHILE.

*Chairman:* Dr. ARMANDO QUEZADA A., Minister of Finance and Member of Congress.

Dr. MANUEL SALINAS, Senator, Ex-Minister of Finance, Foreign Affairs, and Interior.

Dr. ALBERTO EDWARDS, Ex-Member of Congress, Ex-Minister of Finance.

- Dr. FRANCISCO A. ENCINA, Ex-Member of Congress, Ex-Chairman of the Budget Committee of the House of Representatives.  
 Dr. LUIS IZQUIERDO, Ex-Member of Congress, Ex-Minister of Foreign Affairs and Interior.  
 Dr. JORGE MATTE, Member of Congress, Ex-Minister of War, Ex-Chairman of the Budget Committee of the House of Representatives.  
 Dr. GUILLERMO SUBERCASEAUX, Ex-Minister of Finance, Member of Congress, and Professor of Political Science in the National University of Chile.  
*Secretaries:* Sr. LUIS ILLANES, Chief of the Customs Division of the Treasury Department; Sr. ALFREDO ÁVALOS, Secretary to the Minister of Finance.

## COLOMBIA.

Sr. GUILLERMO ANCÍZAR SAMPER.

## COSTA RICA.

- Dr. JUAN ARIAS, Minister of the Interior, Envoy Extraordinary and Minister Plenipotentiary to Argentina.  
 Dr. MANUEL ARAGÓN, Ex-Minister of Finance.  
 Dr. ROGELIO FERNANDEZ GÜELL, Secretary to the Minister of Foreign Affairs.

## CUBA.

- Chairman:* Dr. JUAN DE DIOS GARCÍA KOHLY, Envoy Extraordinary and Minister Plenipotentiary to Holland, Member of the Permanent Arbitration Court of The Hague.  
 Dr. BENJAMÍN GIBERGA, Envoy Extraordinary and Minister Plenipotentiary to Argentina.  
 Dr. ÁLVARO LEDÓN, Collector General of Customs.

## ECUADOR.

- Chairman:* Dr. AUGUSTÍN CABEZAS G., Minister of Finance.  
 Dr. ALBERTO BUSTAMANTE.  
 Dr. RAFAEL VÁSCONES GÓMEZ, President of the Chamber of Commerce of Quito.  
*Secretary:* Sr. MANUEL BUSTAMANTE.

## GUATEMALA.

- Dr. JUAN J. ORTEGA, Minister of Guatemala in Mexico.  
 Dr. FRANCISCO SÁNCHEZ LATOUR, First Secretary of Legation in Washington.

## HAITI.

- Chairman:* M. SEYMOUR PRADEL, Ex-Minister of the Interior, Finance, Commerce, and Public Works, Member of the Institute of International Law.  
 M. FLEURY FEQUIERE, Ex-President of the Court of Claims, Ex-Member of Congress.  
*Secretary:* M. EDMOND MONTAS, Chief of the Diplomatic Bureau of the Department of Foreign Affairs.

## HONDURAS.

Sr. MANUEL G. ZÚÑIGA, Consul General of Honduras in Argentina.

## NICARAGUA.

Dr. PEDRO GONZÁLEZ, Envoy Extraordinary and Minister Plenipotentiary to Argentina.

Sr. JOSÉ DE LA LUZ GUERRERO.

## PANAMA.

Dr. EUSEBIO A. MORALES, Ex-Minister of Finance, Ex-Minister of the Interior and Public Instruction, Envoy Extraordinary and Minister Plenipotentiary from Panama to the United States.

## PARAGUAY.

*Chairman:* Dr. EUSEBIO AYALA, Ex-Minister of Finance.

Sr. JUAN B. GAONA, Ex-President of Paraguay.

Dr. GUALBERTO CARDÚS HUERTA.

Sr. GUILLERMO DE LOS RÍOS, Ex-Minister of Foreign Affairs.

Sr. PEDRO JORBA, President of the Banco de la República.

Dr. VENANCIO C. GALEANO, Assistant Secretary of Finance.

*Secretaries:* Dr. ENRIQUE BORDENAVE, Sr. CARLOS JORBA.

## PERU.

Dr. MANUEL ELÍAS BONNEMAISON, Chargé d'Affaires of Peru in Argentina, Delegate to the Postal Congress of Montevideo in 1911.

Sr. JOSÉ SANTIAGO REY BASADRE, Merchant.

Sr. CARLOS BUENAÑO.

## SALVADOR.

*Chairman:* Dr. FRANCISCO A. LIMA, Assistant Secretary of the Interior and Public Development.

*Secretary:* Dr. JOSÉ ANTONIO QUIROZ.

## URUGUAY.

*Chairman:* Dr. PEDRO COSIO, Minister of Finance.

*Vice Chairman:* Dr. LUIS PIERA, Ex-Chief Justice of the Supreme Court.

Dr. GABRIEL TERRA, Chairman of the Finance Committee of the House of Representatives and Delegate to the First Pan American Financial Conference.

Dr. DANIEL MUÑOZ, Envoy Extraordinary and Minister Plenipotentiary to Argentina.

Dr. JULIO M. LLAMAS, Chief of the National Bureau of Statistics.

Dr. EDUARDO JIMÉNEZ DE ARÉCHAGA, Professor of Commercial Law in the Faculty of Law and Delegate to the International Congress of Jurists.

Dr. DANIEL BLANCO ACEVEDO, Admiralty Counsel.



Commandant GUILLERMO LYONS, Admiralty Counsel.

Sr. OCTAVIO MORATÓ, C. P. A., Delegate to the International Conference of The Hague on Bills of Exchange.

Sr. EDUARDO VÁZQUEZ, C. P. A., Professor of Fiscal Administration.

Sr. TÁCITO HERRERA, Secretary to the National Bureau of Statistics.

Sr. ALFREDO METZ GREEN.

*Secretary:* Dr. GUILLERMO WILSON.

#### VENEZUELA.

Dr. CARLOS F. GRISANTI, Ex-President of the Court of Cassation, Ex-Counselor of the Department of Foreign Affairs.

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### RULES FOR THE FIRST MEETING OF THE INTERNATIONAL HIGH COMMISSION.

#### CREDENTIALS.

ARTICLE 1. The national sections shall hereinafter be called "delegations" and the members thereof "delegates."

ARTICLE 2. Each delegation shall submit to the president of the conference the credentials of each delegate. The president shall forthwith accept those found to be in due form and shall submit to the first general session those on which any doubt may arise. Action shall be taken on the latter at the same meeting.

ARTICLE 3. The president shall submit a report at the preliminary session on those credentials found to be in order, as well as on those on which there may be some question, as provided in the foregoing article. All credentials submitted to the president subsequent to this preliminary session shall follow the procedure outlined in article 2.

#### INAUGURAL SESSION.

ARTICLE 4. The inaugural session shall be held at 3 p. m. on April 3. It shall consist of an address of welcome by the President of the Argentine Republic and of a response on behalf of each delegation; on the conclusion of this ceremony, the minister of finance of the Argentine Republic will deliver an address outlining the purposes of the meeting.

All of these addresses shall be in writing, previously exchanged and read at the inaugural session. The reading shall be in Spanish.

#### OFFICIALS.

ARTICLE 5. The minister of finance of the Argentine Republic shall open the inaugural session as temporary chairman; he shall report as to all credentials accepted, and if there shall be any in doubt the commission shall immediately act thereon.

The permanent presiding officer shall be elected in the same session by a majority vote of the delegations present.

The order in which the delegations shall preside over any meeting in the absence of the permanent chairman shall be determined by lot.

Whenever any delegation to whose duty it shall fall to preside over any session shall consist of more than one member, the delegate to act as chairman of the meeting shall be determined by the members of that delegation.

#### THE PRESIDING OFFICER.

ARTICLE 6. The duties of the presiding officer shall be—

I. To preside at the meetings, in accordance with the order of the day.

II. To give the floor to the delegates in the order in which they may request it.

III. To decide all points of order raised during the debates; but, if any delegate shall so request, the ruling made by the chair shall be submitted to the conference for decision.

IV. To put all motions, resolutions, and reports to the vote and to announce the result.

V. When each meeting of the commission shall have approved the minutes of the previous meeting, the presiding officer shall direct the secretary to lay before the conference any new business that may have arisen since the last meeting.

VI. To prescribe all necessary measures for the maintenance of order and the strict compliance with these rules.

ARTICLE 7. The vice president shall preside over the meetings during the absence of the chairman, in accordance with article 5.

#### SECRETARY GENERAL.

ARTICLE 8. There shall be two secretaries general; the secretary of the Argentine section shall be one, and the other shall be chosen by the conference, if this be thought advisable.

ARTICLE 9. The duties of the secretaries general shall be—

I. To have under their orders all interpreters and other employees appointed by the Argentine Government for the service of the commission, and to organize their respective duties.

II. To receive, distribute, and answer all official correspondence, in accordance with the resolutions of the conference.

III. To prepare or cause to be prepared the minutes of the meetings and to see that such minutes are printed and distributed among the delegates.

IV. To revise all translations made by the interpreters.

V. To distribute among the committees the topics assigned to them, and to place at their disposal everything that may be necessary for the discharge of their duties.

VI. To prepare the order of the day in accordance with instructions of the president.

VII. To serve as intermediaries between the delegations or members thereof and the Argentine authorities.

ARTICLE 10. The topics of the program shall be distributed as follows: First committee, topics 1 and 11; second committee, topics 2 and 13; third committee, topic 3; fourth committee, topics 4 and 7; fifth committee, topics 5 and 6; sixth committee, topics 8 and 9; seventh committee, topics 10 and 12.

ARTICLE 11. All committee assignments shall be made by the permanent presiding officer.

**ARTICLE 12.** Delegates may attend the meetings of all committees and take part in the debates thereof, but they shall not be entitled to vote.

**ARTICLE 13.** All projects presented to committees for deliberation shall be in printed form. The committees shall submit appropriate action for common legislation in all the States represented. Should it be found impossible to attain uniformity in any topic in its entirety, the committee may then report on such points of the same which they may consider appropriate for unification. Should no agreement be reached on any topic this fact shall be so declared. A brief report shall be submitted on each topic, but a minority report may be presented on any subject. Delegations shall also have the right to abstain from voting.

**ARTICLE 14.** Each delegation shall be represented on at least two committees, and by request may be represented on more or on all of the committees.

#### MEETINGS.

**ARTICLE 15.** The conference shall open on the 3d of April and shall adjourn on the 12th of the same month. The sessions may be prolonged for three days more by two-thirds vote of the delegations present.

**ARTICLE 16.** There shall be two sessions daily: The first at 9.30 a. m. and the second at 3 p. m.; if necessary, evening sessions shall also be held.

**ARTICLE 17.** Both for general sessions as well as for committee meetings a quorum shall be formed by the number of persons present at the hour set for the opening of the session.

**ARTICLE 18.** Each delegation shall be entitled to a single vote, both in the general session of the conference and in committee meetings. The voting in the general sessions shall be by yeas and nays and the result entered on the record.

**ARTICLE 19.** At the opening of each session the secretary shall read the minutes of the preceding meeting unless this formality shall have been dispensed with. Record shall be kept of any remarks of the presiding officer or of any of the delegates as to the minutes, which shall then be approved.

**ARTICLE 20.** When the presiding officer shall have submitted for discussion the subjects contained in the order of the day, the conference shall first discuss them in a general way and those approved shall be the subject of a second discussion in detail, each article being considered separately.

**ARTICLE 21.** The conference may, by a two-thirds vote of the delegations present, grant unanimous consent for the immediate discussion of a motion, which shall be at once discussed in general and in detail.

**ARTICLE 22.** The conference shall not vote on any motion or resolution relating to any of the topics included in the program unless at least two-thirds of the nations attending the conference be represented by one or more delegates.

**ARTICLE 23.** All motions or resolutions shall be considered as approved when they obtain the affirmative vote of a majority of the delegations represented by one or more of their members at the meeting where the vote is taken. Any delegation which shall send

its vote to the secretary-general shall be considered as present and represented at the meeting.

ARTICLE 24. When by reason of absence or abstention the necessary majority as provided by the foregoing articles shall not be obtained the matter shall be submitted for further consideration at a subsequent meeting on the motion of any delegation.

#### PURPOSES OF THE INTERNATIONAL HIGH COMMISSION.

ARTICLE 25. The purpose of the International High Commission is to draft projects for uniform legislation on the topics enumerated in the official program. All resolutions shall be in the form of recommendations and hence in no way binding upon the respective governments.

#### OFFICIAL LANGUAGES.

ARTICLE 26. The official languages of the commission shall be English, French, Portuguese, and Spanish. Every address, speech, motion, order of the day, or other communication submitted to the commission shall be translated into these four languages, printed and circulated among the delegates.

#### MEETINGS.

ARTICLE 27. No notices shall be needed for the general sessions with the exception of such extraordinary sessions as may be convened.

Unless otherwise determined all general sessions shall be open to the public.

#### MEMORANDA OF DELEGATIONS.

ARTICLE 28. Each delegation on submitting its credentials shall hand to the presiding officer such memoranda and proposals as they shall have prepared on the several topics of the program. These documents shall be translated into the four official languages, printed, and distributed among the delegates.

#### RIGHTS AND DUTIES OF DELEGATES.

ARTICLE 29. Delegates may speak in their own language, from manuscript or otherwise; on the termination of any speech either the delegate himself or one of the interpreters shall, upon a request of any delegate, at once give an oral synopsis of the main points of the speech in any language requested. This shall also apply to the remarks of the presiding officer and of the secretary.

ARTICLE 30. No delegation may speak more than twice on the same subject, nor more than 10 minutes on each occasion. Delegates may, however, speak for not more than five minutes on any point of order or for a personal privilege; the author of any motion may speak more than once, not exceeding 15 minutes.

ARTICLE 31. Any delegate may submit to the conference his written opinion upon any matter or point under discussion, and may request that it be spread upon the minutes of the meeting in which it is submitted.

Furthermore, any delegation not present at the taking of a vote on any subject may give its vote in writing and deliver or forward the same to the secretary general; such vote or votes shall be reckoned as if the delegations or delegates were present.

#### THE AMENDMENT OF THE PROGRAM.

The deliberations of the conference shall be confined to the topics on the program. The conference may, however, by a two-thirds' vote decide to take under consideration new topics, provided they shall have been duly proposed and seconded.

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#### REPORT OF THE COMMITTEE ON RULES.

SIR: The committee appointed to study the draft of rules to govern the deliberations of the International High Commission has the honor herewith to submit its report.

The rules have been drafted with great care; they accurately define the character of the several delegations and organize the labors of the conference. Your committee recommends the following additions and changes:

1. That at the first session for the regular transaction of business the permanent presiding officer invite the delegations to make such remarks on the general work of the conference as they may deem advisable.

2. That the presiding officer name a committee on resolutions, composed of five members, charged with drawing up the final act of the recommendations adopted; an effort should be made carefully to revise these in order that they may present a harmonious whole.

3. The two daily sessions to which article 16 refers shall be understood to be either committee meetings, as provided in article 10, or general sessions; the latter shall be called by the presiding officer whenever in his judgment the work of the conference shall require it.

4. The written opinion mentioned in article 31 shall be given at the same session.

Respectfully submitted.

E. L. BIDAU.  
J. P. CALOGERAS.  
DUNCAN U. FLETCHER.  
LUIS IZQUIERDO.  
SEYMOUR PRADEL.  
CARLOS F. GRISANTI.

The rules were approved in the general session of April 4 with the amendments suggested.

## JOURNAL OF PROCEEDINGS.

## FIRST GENERAL SESSION, APRIL 3, 1916—AFTERNOON.

## SUMMARY.

- I. Designation of reception committees.
- II. Address of welcome by His Excellency Dr. Victorino de la Plaza, President of the Argentine Republic, and responses of the chairmen of delegations.
- III. Opening of the first general business session; election and inaugural address of the permanent presiding officer, Dr. Francisco J. Oliver.
- IV. Tribute to the coordinate branches of the Government of the Argentine Nation; designation of honorary presidents.

## I.

The inaugural session was held in the hall of the chamber of deputies on the afternoon of April 3rd. at 3 p. m. The ceremonial was simple and dignified. The presiding officer, Dr. Francisco J. Oliver, designated two committees to welcome the president of the Argentine Republic, His Excellency, Dr. Victorino de la Plaza. The personnel of these committees was as follows: First committee: Their excellencies, William G. McAdoo, João Pandiá Calogeras, Armando Quezada A., Agustín Cabezas G., Pedro Cosío, and Eleodoro Lobos; second committee, their excellencies, Eliodoro Villazón, Juan R. Arias, Eusebio A. Morales, Eusebio Ayala, Manuel Elias Bonnemaïson, and Norberto Piñero. The first committee met the chief magistrate at the steps of the capitol, while the second committee escorted him from the entrance of the hall to his place at the speaker's desk between the minister of foreign affairs of Argentina on his right and the minister of finance on his left.

## II.

The president after acknowledging the plaudits which greeted his appearance addressed the conference.<sup>1</sup> Dr. Plaza called attention to the change that had taken place in European sentiment with regard to Pan American gatherings since the first congress held at Washington in 1889-90. The suspicion which had then been aroused had now been almost wholly dispelled. Europe has come to realize that "as America has its own history, so it has its own common ideals and aspirations, its ties of blood, of government, and of liberty. What more natural, then, that while not resorting to any exclusive policies, nor attempting to form an international law different from that of other nations, an effort should be made to harmonize all these conditions peculiar, in law and in fact, to the Continent of America."

The president's brief but inspiring message closed with a cordial greeting on behalf of the Argentine people and Government and with the hope that fruitful results would flow from the deliberations of the commission.

Following the procedure observed at the First Pan American Financial Conference, the presiding officer then invited each delegation in alphabetical order to reply. The responses were all marked by a spirit of cordiality and determination to achieve some practical result.

<sup>1</sup> The full text of this address will be found in Part I of this report, House Document 1788, Sixty-fourth Congress, second session, Appendix C.

The rules called for the responses to be read in Spanish.

On behalf of the United States delegation Hon. Paul M. Warburg read a Spanish text of the following response:

"Mr. President, Excellencies, and Members of the International High Commission: I bring to you and to the Argentine nation a message of genuine friendship and sympathy from the President and people of the United States. My colleagues and myself have come to Argentina eager to join you and the other delegations to this formal meeting of the International High Commission in the accomplishment of constructive and enduring improvements in the technical, fiscal, and economic aspects of our relations. But although our work will be centered around these material interests, we are all inspired, I am sure, by a lofty and abiding vision of spiritual unity and continental harmony. As we of the United States pass from one Ibero-American Republic to another and survey their heroic history and mature culture, we find that, while all of our peoples of the American Hemisphere, North and South, are alike in loyal allegiance to the creative genius and culture of our common mother Europe, yet each has its characteristic features, each strives for its national ideals, each vies with the other in contributing its share to the development of the common ideal, the ideal of the Americas, of a high social and economic national life based upon the principles of order and progress, of liberty and peace. In this harmonious effort of our republics, we perceive a splendid symphony, the majestic march of nations advancing toward a bright and glorious destiny. May our deliberations contribute to the serenity and welfare of our race and help us to realize the loftiest purposes of our civilization."

The chairman of the Bolivian delegation, Dr. Eliodoro Villazón, Ex-President of Bolivia, paid a gracious compliment to Dr. de la Plaza by quoting from a memorandum submitted by the latter to the Argentine Congress in September, 1883, which contained these words of remarkable prophetic vision: "I see the day approaching when the American nations will begin to strengthen their reciprocal relations through treaties and conventions designed for their common protection and welfare; when they will meet to consider means of developing trade with one another, of extending their means of communication, of developing their industries, and of exchanging their products; when they will labor toward the unification of their moneys and of their laws; when they will break down the economic barriers which to-day hinder their free intercourse, and thus contribute to the general welfare and prosperity of all." In carrying out this noble purpose Bolivia was ready in a spirit of generous cooperation to follow the example of those members of the family of American nations whose progress had been most marked by progressive economic legislation; and Argentina, by reason of her stable financial situation, was in the foremost rank.

The chairman of the Brazilian delegation thanked the President of Argentina for the gracious courtesies accorded his delegation. "Your excellency's lofty words interpreted not only the sentiments of the Argentine nation, but those of Brazil, its Government, and its people. Peace to men of good will, protection to their efforts in favor of mankind; these are the forces by which friendly economic competition will find the means to avoid conflicts of a graver nature."

The Chilean delegation, after pointing out that almost a century had been spent in theorizing, dwelt upon the timeliness of the First Pan American Financial Conference and its practical achievements. The Republics of America must radically change their conditions so that their prosperity, their growth, and the satisfying of their most vital needs should not be left to the vagaries of politics in other lands. America must seek and attain her economic independence, and this without in any way impairing her traditional relations with the Old World. While some of the nations of the western continent have succeeded in overcoming the difficulties in the way of full economic development, others have not yet reached this advanced stage. Some means, then, must be found to stimulate this evolution for, "just as the body is not vigorous without the harmonious development of all its members, so America will never be a powerful and independent economic unit until each of her peoples has attained the fullest measure of its industrial and commercial expansion." And this expansion will certainly be aided by uniform legislation in the fields of commercial law and public finance, toward whose attainment the commission is laboring.

An earnest and spirited address was delivered by the Colombian delegate. He painted a graphic picture of the European nations engaged in a death struggle while the American peoples were seeking to strengthen their bonds of union and fellowship. Meetings such as this are a proof of the sincere desire to know and appreciate one another better. "But economic ties are impossible where suspicion is harbored, for let us not forget that trust is not born of mere words, but that it must rest on acts inspired in mutual regard and consideration. In this solemn hour may all of us, moved by a true feeling of confraternity, remove every cause of suspicion and distrust, so that we may enter upon the new era with a conscience undisturbed and united in thought and deed."

The spirit of the Americas, said Dr. Arias of the Costa Rican delegation, has found its expression in the massive statue of the Savior which from the rugged heights of the Andes breathes forth the message of the angels on that glad morn: "Glory to God in the highest, and on earth peace to men of good will." And it is in this spirit of friendship and cooperation that the nations of the New World must labor in order that their union may be a reality and not an empty dream—the strong helping the weak.

The Cuban delegate emphasized the need of closer economic union. This need has been rudely brought home to the peoples of America by two recent events—the opening of the Panama Canal and the European war. The problems to be faced are of the gravest, but fortunately the statesmen are meeting, as on this occasion, to find a solution which shall satisfy the aspirations of all. But in these deliberations "we need more than mere theory; we need some practical conclusions; we need action."

Ecuador, said the chairman of this delegation, feels both pride and encouragement when it contemplates the happy position of Argentina. An orderly democracy, a vast storehouse of wealth, buzzing industries attracting labor from all parts of the world—such is the picture offered us by this great southern Republic. "What Argentina has been able to accomplish should be to us a lesson of what can be done by the other nations of this hemisphere, no whit less bountifully endowed by nature."



The Haitian and Nicaraguan delegations in brief addresses expressed their warm appreciation of the courtesies shown by the Argentine Government and people and the hope that greater continental solidarity and practical results might come from the meeting.

A gracious compliment was paid the Pan American Union by the only representative of its board of governors present at the meeting, His Excellency Eusebio A. Morales, minister of Panama at Washington. "There is no corner in the whole American continent where the sentiment of American brotherhood does not find an echo," said Dr. Morales, "nor where it is not fully realized that our young and vigorous nations are destined to play an important rôle in the future of the world."

Dr. Ayala, on behalf of the Paraguayan delegation, laid stress on the substantial achievements in the way of closer relations between the several American nations which the last few months had seen. The First Pan American Financial Conference had hardly adjourned before the Republics of the New World had gathered anew at the Second Pan American Scientific Congress; and this assembly had no more than closed when we meet again to discuss means of effecting closer economic and financial unity.

The subject of transportation received special attention from the chairman of the Peruvian delegation. "Transportation facilities," he said, "are the corner stone on which will be raised the structure of our commercial relations." The establishment of a uniform gold monetary standard, uniform customs regulations, cheaper postal rates, commercial arbitration, and other topics no less vital in strengthening our commercial bonds with the great Republic of the North were likewise reviewed.

The Salvadorean delegation, through its chairman, Señor Lima, expressed the hope that practical and beneficent results would crown the deliberations of the commission.

"From the picture of Europe," said Dr. Cosio, chairman of the Uruguayan delegation, "the nations of America must draw a powerful inspiration to compel us to preach the gospel of a new faith through the triumph of truth, reason, and justice."

Dr. Grisanti, of the Venezuelan delegation said: "Trade has been, and ever will be, the force driving nations together, and so the effort toward adjusting and harmonizing the commercial law of the Americas will mark a new era in the life of these nations from which rich blessings must flow."

At this point the President of the Republic withdrew, escorted by the same committees that had acted on his arrival.

### III.

The temporary presiding officer then announced that the first business session was open. Owing to the lateness of the hour the Chair suggested that the matter of credentials and the designation of the secretary-general of the meeting be postponed and that the sole business transacted be the election of the permanent presiding officer.

The chairman of the United States delegation proposed that His Excellency Dr. Oliver, minister of finance of the Argentine Republic, should be elected permanent presiding officer. The motion was

immediately seconded by the chairman of the Uruguayan delegation, His Excellency Pedro Cosio, minister of finance of Uruguay, and was passed by acclamation.

Dr. Oliver here addressed the assembly.<sup>1</sup> He opened by pointing to the fact that "the solidarity of the Americas is daily assuming a more practical and definite shape." He emphasized the need of closer coordinate effort, holding that the endeavors of previous Pan American gatherings "had embraced too extended a program, and that a more rapid means of attaining effective economic union should be sought." The program of the commission was analyzed: A uniform gold currency standard, greater banking facilities, uniform regulations for commercial travelers, the great intercontinental railway project, improved ocean transportation facilities—all were given more than a passing reference.

His closing remarks strove to dispel certain mists of suspicion and distrust which seem to arise, he said, in the minds of some with the mere announcement of a Pan American gathering. "Nobody can feel alarmed at this policy of American concord and cooperation, since it will redound to the equal benefit of all. Again, the material and moral force presented by Pan American unity will not only be a factor in our economic progress, but it will also constitute one of the bulwarks of the rights of American nations."

#### IV.

The applause which greeted these words had hardly died away when Dr. Gabriel Terra, of Uruguay, made a motion that as an evidence of Pan American solidarity the conference should express by a standing vote its sense of appreciation to the three coordinate branches of the Government of the Argentine Republic. Unanimous approval greeted the motion.

As provided in the amended rules, the presiding officer hereupon invited the delegates to address the conference on matters of general interest. On the suggestion, however, of several delegates this portion of the program was postponed to the following day at 11 o'clock.

Before the adoption of the motion for adjournment, the Peruvian delegate, Dr. Bonnemaïson, proposed that as a tribute to his cooperation in holding this meeting the President of the Argentine Republic should be elected honorary president of the conference, and the same honor accorded to the minister of foreign affairs, by virtue of the international aspect of the conference. The motion was agreed to by acclamation.

On motion duly made and seconded, the ministers of finance of the several American Republics were likewise designated honorary presidents of the conference. Each of the ministers of finance present at the gathering, Hon. W. G. McAdoo, of the United States, His Excellency João Pandiá Calogeras, of Brazil, His Excellency Armando Quezada A., of Chile, His Excellency Agustín Cabezas G., of Ecuador, and His Excellency, Pedro Cosio, of Uruguay, expressed his thanks for the distinction shown him and his country.

The meeting adjourned at 5.20 p. m.

<sup>1</sup> The full text of this address will be found in Part I of this report, House Document No. 1788, Sixty-fourth Congress, second session, p. 35.

## SECOND GENERAL SESSION, APRIL 4, 1916—MORNING.

## SUMMARY.

- I. Report of the committee on rules; remarks of a general character.
- II. Committee assignments.
- III. Election of vice presidents.

## I.

At the opening of the second session it was decided to translate, print, and distribute the minutes of each meeting before the conference reconvened.

In order to expedite the work of the conference and obviate the necessity of a roll call, it was suggested that each delegate in attendance leave his name with the secretary general before retiring.

The committee on rules here submitted its report.<sup>1</sup> Its most important recommendation was the appointment of a committee on resolutions of five members to draw up the final act, containing all the resolutions of the conference in revised form.

In compliance with a suggestion made by the committee on rules the presiding officer invited the delegates to address the conference on matters of general character. Following the alphabetical order of participating countries, the chairman of the United States delegation was the first to make use of this privilege.<sup>2</sup>

## II.

As no other delegate requested the floor, the order of the day was continued. This called for the election of vice presidents of the conference. The method provided for in the rules was that of drawing lots. Accordingly, while preparations for this were under way the secretary general read the following committee assignments:

## FIRST COMMITTEE.

- 1.—Establishment of a gold standard or gold exchange standard.
- 11.—Banking facilities; extension of credits; financing of public and private enterprises; stabilization of international exchange.

*Chairman:* Dr. Gabriel Terra, Uruguay.

United States of America.	Paul M. Warburg, Archibald Kains.
Argentina.....	Norberto Piñero, Manuel M. de Iriondo, Samuel Hale Pearson.
Bolivia.....	Eliodoro Villazón, Jorge Sáenz, J. L. Tejada.
Brazil.....	Custodio de Almeida Magalhaes.
Chile.....	Guillermo Subercaseaux.
Colombia.....	Guillermo Ancízar Samper.
Costa Rica.....	Manuel Aragón, Rogelio Fernández Güell.
Ecuador.....	Agustín Cabezas G.
Haiti.....	Seymour Pradel.
Panama.....	Eusebio A. Morales.
Paraguay.....	Gualberto Cardús Huerta, Juan B. Gaona.
Peru.....	Carlos Buenaño.
Salvador.....	Francisco A. Lima.
Uruguay.....	Pedro Cosío, Gabriel Terra, Julio M. Llamas, Octavio Morató.

<sup>1</sup> The full text of this report will be found on p. 22.

<sup>2</sup> The full text of this address will be found in Part I of the report of the United States Section of the International High Commission, House Document 1788, Sixty-fourth Congress, second session, p. 37.

## SECOND COMMITTEE.

- 2.—Bills of exchange; bills of lading; warehouse receipts, and other commercial paper in international trade.

- 13.—Uniformity of laws for the protection of merchant creditors.

*Chairman:* Dr. Herculano Inglez de Souza, Brazil.

United States of America.	Paul M. Warburg, Samuel Untermyer.
Argentina.....	Ricardo C. Aldao, Leopoldo Melo.
Bolivia.....	Carlos Calvo, Jorge Sáenz.
Brazil.....	Herculano Marcos Inglez de Souza.
Chile.....	Manuel Salinas.
Costa Rica.....	Manuel Aragón, Rogelio Fernández Güell.
Cuba.....	Juan de Dios García Kohly, Alvaro Ledón.
Ecuador.....	Alberto Bustamante.
Haiti.....	Seymour Pradel.
Paraguay.....	Eusebio Ayala, Pedro Jorba.
Peru.....	Manuel Elías Bonnemaïson.
Salvador.....	Francisco A. Lima.
Uruguay.....	Eduardo Jiménez de Aréchaga, Octavio Morató.
Venezuela.....	Carlos F. Grisanti.

## THIRD COMMITTEE.

- 3.—Uniform classification of merchandise; uniform customs regulations; uniform consular certificates and invoices; port charges.

*Chairman:* Dr. Manuel Elías Bonnemaïson, Peru.

United States of America.	Andrew J. Peters.
Argentina.....	Eduardo L. Bidau, Manuel M. de Iriondo, Samuel Hale Pearson.
Bolivia.....	José Luis Tejada, Jorge Sáenz.
Brazil.....	Juan Francisco de Paula e Silva.
Chile.....	Alberto Edwards.
Cuba.....	Alvaro Ledón, Juan de Dios García Kohly.
Ecuador.....	Agustín Cabezas G.
Paraguay.....	Venancio C. Galeano.
Peru.....	Manuel Elías Bonnemaïson.
Uruguay.....	Eduardo Vázquez, Daniel Blanco Acevedo, G. Lyons.
Venezuela.....	Carlos F. Grisanti.

## FOURTH COMMITTEE.

- 4.—Uniform regulations for commercial travelers.
- 7.—Extension of the process of arbitration for the settlement of commercial disputes.

*Chairman:* Dr. Luis Piera, Uruguay.

United States of America.	John H. Fahey.
Argentina.....	Ricardo C. Aldao, Luis E. Zuberbühler.
Bolivia.....	Jorge Sáenz.
Brazil.....	Herculano Marcos Inglez de Souza, Juan Francisco de Paula e Silva.
Chile.....	Alberto Edwards, Luis Izquierdo.
Cuba.....	Alvaro Ledón.
Ecuador.....	Alberto Bustamante, Rafael Váscos Góme.
Paraguay.....	Juan B. Gaona, Venancio C. Galeano.
Peru.....	José Santiago Rey Basadre.
Uruguay.....	Guillermo Wilson, Luis Piera.

## FIFTH COMMITTEE.

5.—Patent, trade-mark, and copyright legislation.

6.—Reduction and uniformity of postal rates; money-order and parcel-post facilities.

*Chairman:* Dr. Eliodoro Villazón, Bolivia.

United States of America..	Samuel Untermyer, Duncan U. Fletcher.
Argentina.....	Eleodoro Lobos, Alfredo Echagüe, Leopoldo Melo.
Bolivia.....	Carlos Calvo, Eliodoro Villazón.
Chile.....	Francisco Encina, Jorge Matte.
Cuba.....	Juan de Dios García Kohly, Benjamín Giberga.
Ecuador.....	Rafael Váscos Gómez.
Paraguay.....	Gualberto Cardus Huerta, Pedro Jorba.
Peru.....	Manuel E. Bonnemaison.
Salvador.....	Francisco A. Lima.
Uruguay.....	Luis Piera, Guillermo Wilson, Daniel Muñoz.

## SIXTH COMMITTEE.

8.—International agreements on uniform labor legislation.

9.—Uniformity of regulations governing the classification and analysis of petroleum and other mineral fuels with reference to national development policies.

*Chairman:* Dr. Pedro Cosío, Uruguay.

United States of America..	W. G. McAdoo, Andrew J. Peters.
Argentina.....	Eleodoro Lobos.
Bolivia.....	Eliodoro Villazón.
Chile.....	Guillermo Subercaseaux, Francisco A. Encina.
Colombia.....	Guillermo Ancizar Samper.
Nicaragua.....	José de la Luz Guerrero.
Peru.....	José Santiago Rey Basadre.
Uruguay.....	Pedro Cosío, Gabriel Terra, Daniel Muñoz.

## SEVENTH COMMITTEE.

10.—Necessity of better transportation facilities between the American Republics.

12.—Telegraph facilities and rates; the use of wireless telegraphy for commercial purposes.

*Chairman:* Hon. W. G. McAdoo, United States of America.

United States of America..	W. G. McAdoo, Duncan U. Fletcher.
Argentina.....	Eleodoro Lobos, Alfredo Echagüe, Norberto Piñero.
Bolivia.....	Eliodoro Villazón, José Luis Tejada.
Brazil.....	Custodio de Almeida Magalhães.
Cuba.....	Alvaro Ledón, Juan de Dios García Kohly, Benjamín Giberga.
Chile.....	Manuel Salinas, Luis Izquierdo, Jorge Matte.
Haiti.....	Fleury Fequiere.
Panama.....	Eusebio A. Morales.
Paraguay.....	Eusebio Ayala.
Peru.....	Carlos Buenaño.
Uruguay.....	Daniel Blanco Acevedo, Guillermo Lyons, Eduardo Vázquez.

The secretary general, under instructions from the presiding officer, read the article from the rules providing for the election by lot of vice presidents of the conference. The secretaries of the delegations of the United States and of Haiti, Drs. C. E. McGuire and Edmond Montas, were designated to conduct the drawing. The delegations were elected to serve in the following order: Cuba, Chile, Salvador, Panama, Peru, Venezuela.

The meeting adjourned at 1 p. m.

## THIRD GENERAL SESSION, APRIL 7, 1916—MORNING.

## SUMMARY.

- I. Order of the Day.
- II. Formal admission of the Honduran delegate, Señor Manuel G. Zúñiga.
- III. Inclusion of a new topic in the program.
- IV. Constitution of the committee on resolutions.

## I.

The minutes of the preceding session were read and approved.

The secretary general reported the admission as delegates of Uruguay of Señores Tácito Herrera and Alfredo Metz Green.

A communication was then read from the Argentine Socialist Party indorsing the aims of the International High Commission.

There follows the order of the day:

1. Motion by Dr. Aldao proposing that Mr. J. Brooks B. Parker, assistant secretary of the United States delegation, be designated second secretary general of the conference.

2. Formal admission of the Honduran delegate, Señor Manuel G. Zúñiga.

3. Report of the fourth committee on uniform regulations for commercial travelers.

After a short discussion in which Messrs. Melo, Matte, and the presiding officer took part, article 30 of the rules was amended so as to limit each speaker to 5 minutes on any one topic, while reserving the right of any proposer of a motion to speak for 15 minutes.

The chairman of the second committee, Dr. Inglez de Souza, reported on its behalf that an agreement had been reached to dispose of all the reservations contained in the Hague Convention of 1912 on bills of exchange.

The order of the day was then resumed. On the declination of this honor by the United States delegation, Señor Aldao withdrew his nomination of Mr. Parker as second secretary general of the conference.

## II.

The next business before the conference was the formal admission of the Honduran delegate. The secretary general explained that due to difficulties of communication, the credentials of this delegate had not been received, but that his office was in receipt of a duly authenticated telegram appointing Señor Zúñiga, consul general of Honduras in Argentina, delegate to the conference. By unanimous consent Señor Zúñiga took his seat as a member of the conference. Owing to his absence from the inaugural session he took this opportunity briefly to express the cordial thanks of his Government for the courtesies shown him by the Argentine authorities and to voice the hope that many beneficent results would accrue to the American continent from the deliberations of the commission.

Thereupon it was unanimously agreed to postpone consideration of the report of the fourth committee on uniform regulations for commercial travelers to the following Monday, in order to allow opportunity for an individual examination of the committee report.

## III.

The Uruguayan delegate, Señor Vázquez, reported that the United States delegate on the third committee had submitted a topic regarding which the committee entertained certain doubts as to its authorization to consider it without the sanction of the entire commission. The project was a plan for the sanitary certification of freight between American ports. A brief discussion ensued as to the proper parliamentary procedure for disposing of the matter, doubt having been expressed as to the right of the commission to add new subjects to its program which had not previously been submitted officially as a delegation project and which had not been duly seconded. Both points were satisfactorily disposed of and the matter was referred to the third committee.

## IV.

The presiding officer, acting under authority of the amendment of the committee on rules, proceeded to designate the following committee on resolutions: Their excellencies, W. G. McAdoo, Joao Pandiá Calogeras, Armando Quezada A., Agustín Cabezas G., and Pedro Cosío. The Chilean delegate, Señor Matte, proposed that Dr. Oliver, in his capacity as presiding officer, be added to this committee; and in the event of his inability to serve that some other member of the Argentine delegation be named in his stead. The minister of finance of Brazil, Señor Calogeras, seconded Señor Matte's motion, and asked leave of the commission to decline service on the committee on the ground "that the Brazilian delegates would deem it an honor to be represented on this committee by a delegate from the Argentine Republic." Señor Matte thereupon amended his original suggestion by a proposal to increase the number of members on the committee on resolutions from five to six in order that both the Republic of Argentine and that of Brazil might be represented on it. The presiding officer, after thanking the Brazilian and Chilean delegates for the courtesy shown him, put the proposal to a vote. It was carried unanimously. The chair accordingly designated Dr. Eleodoro Lobos as the Argentine delegate on the committee on resolutions. The chairman of the United States delegation requested that Mr. Samuel Untermeyer be named in his place; to which the chair assented.

The meeting adjourned at 12.30 p. m.

## FOURTH GENERAL SESSION, APRIL 10, 1916—MORNING.

## SUMMARY.

- I. Committee reports; proposals submitted by the Uruguayan delegation.
- II. Report of the fourth committee on uniform regulations for commercial travelers.
- III. Report of the seventh committee on necessity for better transportation facilities between the American Republics; telegraph rates and facilities; the use of wireless telegraphy for commercial purposes.
- IV. Resolution on compulsory language instruction.

## I.

After the approval of the minutes, as printed and distributed, the secretary general read the order of the day, as follows:

1. Report of the fourth committee on uniform regulations for commercial travelers.
2. Report of the seventh committee on (a) ocean transportation; (b) railroad communication; (c) telegraph facilities and rates; the use of radiotelegraphy for commercial purposes.
3. Resolutions on admiralty law and stock companies.
4. Project for the establishment of permanent expositions of American products.
5. Report of the sixth committee on international agreements on uniform labor legislation; uniformity of regulations governing the classification and analysis of petroleum and other mineral fuels with reference to national development policies.

## II.

The secretary general read the report of the fourth committee on uniform regulations for commercial travelers<sup>1</sup> as follows:

The fourth committee, to which was referred the consideration of the fourth topic, has the honor to submit its report. The object of its study of the topic "Uniform regulations for commercial travelers" was:

1. To establish rules and legal procedure which shall permit commercial travelers to journey from one country to another without being exposed to the obstacles inherent in diversity of legislation.
2. To secure the reduction of license fees in order to stimulate the influx of commercial travelers and the consequent expansion of trade, endeavoring to abolish local license fees wherever possible.
3. To obtain from the respective customhouses, subject to a bond to cover the import dues, the temporary admission of samples of commercial value, provided that these be designed for subsequent reexportation.

Your committee accordingly submits to the International High Commission the following uniform regulations for commercial travelers:

1. All merchants, manufacturers, commission agents, and other traders legally recognized in those countries where they are domiciled

<sup>1</sup> The Central Executive Council has prepared and submitted through the proper channels to the several sections a draft of a treaty concerning commercial travelers, which together with a memorandum will be found on p. 175.



may operate as commercial travelers, either personally or through employees or agents under their orders, in any other nation of the American Continent on payment of a single license fee valid for the whole territorial jurisdiction of that country.

2. The documents accrediting the character of a commercial traveler shall be issued by the proper authorities of each country and viséed by the consul of that country in which he intends to operate. With these documents before them the authorities of the latter country shall issue a single national license as provided in the foregoing article.

3. Commercial travelers who fail to comply with the above requirements shall not be granted a license; and, should they operate without it, they shall be liable to the penalties established by the laws and regulations of each country.

4. A commercial traveler shall be allowed to sell his samples of commercial value without a special license as importer, but he shall not be authorized to effect sales of other merchandise.

5. Samples of no commercial value, as well as those which may be marked, stamped, or defaced so that they can not be utilized for other purposes, shall be allowed to enter free of duty.

6. Samples of commercial value, which may be imported with the intention of being reexported within a period not exceeding six months through any of the customhouses of the respective countries, shall be provisionally admitted, subject to a bond to cover import duties.

7. The commercial samples to which the foregoing paragraph refers shall pay the corresponding customs duties for such portion thereof as may not be reexported within the period of their temporary admission.

8. All customs formalities shall be simplified as much as possible with a view to avoiding delay in the dispatch of commercial samples.

9. All peddlers or other salesmen who deal directly with the consumer but who have no established place of business in a given country shall not be considered as commercial travelers in that country, but shall be subject to the license fee levied by that country, according to the nature of the business carried on.

10. The following persons shall not be subject to these regulations:

(a) Such persons as travel only to study the market and its needs, even though they establish commercial relations, provided, however, they do not effect sales of merchandise.

(b) Such commercial travelers as act through a representative of those factories or firms that pay their respective license fees in the country in which they carry on their business.

(c) Such commercial travelers as are exclusively buyers.

The report was unanimously approved.

This report was constructed on the basis of memoranda submitted by the Argentine, Brazilian, Costa Rican, Bolivian, and Uruguayan delegations, respectively. The Argentine memorandum prepared by Señor Luis E. Zuberbühler, president of the Chamber of Commerce of Buenos Aires, was largely drawn upon for the committee report. It opens with a critical analysis of conditions in the Argentine Republic, where there are no less than 15 different state and provincial laws and

license fees, varying, according to the line of business, from 200 to 1,000 Argentine pesos per province. It will thus be seen that a commercial traveler will be taxed 7,000 pesos for the privilege of presenting his wares throughout the Republic. Such taxation militates strongly against the development of interstate or foreign trade. On the other hand, travelers are led to transact business exclusively in the national capital, because of the more favorable conditions obtaining there; and this situation naturally reacts unfavorably upon the commercial development of the provinces.

Dr. Zuberbühler then quotes section 132 of the law governing license fees in Argentina, which reads as follows: "Representatives of foreign firms having no place of business open to the public, or foreign commercial travelers shall pay a license fee of 500 pesos."

The representative of foreign houses plays a rôle of a slightly different character from that of the commercial traveler. Although he has no place of business where his goods are offered for sale, he nevertheless has a place of business on which rent is paid; in reality he complements and is complemented by the former. It is not an unusual thing for a foreign commercial traveler to evade payment of the fee imposed by law.

The peddler, on the other hand, retails the goods themselves to the consumer, and so is clearly distinguishable from the commercial traveler who merely secures orders for goods.

Lastly, he shows how the local importing house, often representing domestic capital, pays all local taxes and office rent, and in general contributes by his presence to the aggregate of national wealth.

Customs formalities in Argentina are next dealt with, and are shown to be of an advanced and liberal type. Samples having no commercial value are admitted free of duty and samples of commercial value may enter for a period of six months on payment of a bond. So, too, samples may leave the country through a different port from that through which they entered.

Among other obstacles to be overcome by the commercial traveler are excessive railroad rates. The Argentine roads grant a rebate of 50 per cent on samples taken as part of the agent's baggage up to 550 pounds. But while certain facilities in freight rates have been accorded, few, if any, American nations have imitated the excellent example set by European countries which grant a 50 per cent reduction on mileage tickets used by commercial travelers. This one privilege in Dr. Zuberbühler's opinion would be a powerful stimulus in fostering the advent of commercial travelers with the attendant national development.

The recommendation was likewise made that commercial travelers should be furnished with certificates of identification to prove their bona fide character. Such documents should be issued by some Government agency or chamber of commerce and should be viséed by the consul of the country in which operations are to be carried on.

Dr. Zuberbühler's interesting report closes with concrete suggestions as to the federalization of travelers' fees which were adopted to a large degree by the committee.

In a brief memorandum submitted on this topic, the Brazilian delegation showed that the certificate of identification is practically provided for in the Commercial Code of Brazil, in article 74, to the effect that "agents of commercial houses prior to taking charge of their duties,

should receive from their employers or chiefs a letter of appointment in writing which they shall cause to be registered at the Board of Trade." This idea, it is suggested, can be extended by the creation in each country of some body charged with registering such letters of appointment of travelers. So well expressed is this thought that it is given in full: "This title when duly registered or a certificate of such registration should be accompanied with a card of identification, together with a photograph, finger-mark, or other sign, and such other information as is usually given in such cases. It is advisable, furthermore, that the certificate and all data relating thereto be embodied in a single document to be submitted to the regular consular officials for legalization."

The memorandum submitted by the Costa Rican delegation advocates no changes in Costa Rican laws and regulations, since the fee charged is not excessive, nor is there any restriction on the activity of commercial travelers.

The Haitian and Salvadorean delegations also recommended a certificate of identification.

Ecuadorean legislation imposes a tax of 100 sucres valid for the whole Republic, and admits samples upon deposit of duties, reimbursable when the samples are withdrawn in due form. Ecuador is ready to accept the principle of a deposit of a bond in lieu of the money deposit now required. It is furthermore pointed out that this change, being administrative, may readily be effected.

The chapter devoted to this topic in the Venezuelan memorandum is a valuable contribution. An analysis is made of Italian and French legislation. Venezuela has no special national legislation on the subject. The report favors the suppression of license fees and the use of a certificate of identification.

The Bolivian delegation reported that a varying municipal fee is imposed on commercial travelers, with or without samples, in order to counteract the competition to which local business houses would otherwise be subjected. This competition the report regards as "unfair." The delegation, however, indorses the general principles of unrestricted operation, subject to the following conditions: (a) Provision of certificates of identification; (b) prohibition, under heavy penalty, to engage in direct sale transactions.

The Uruguayan delegation, favoring freedom of action for commercial travelers, emphasizes that isolated cases of irregularities form no sufficient ground for withdrawing the protection which these agents of commerce need in order properly to carry out their objects. A certificate of identification from a duly authorized official would provide satisfactory evidence that samples would not be made the subject of sale.

### III.

Next on the order of the day came the report of the seventh committee dealing with the following subjects: (a) Ocean transportation; (b) Railroad communication; (c) Telegraph rates and facilities and wireless communication for commercial purposes.

At the suggestion of Dr. Lobos, rapporteur of the seventh committee, discussion of paragraph (a), dealing with ocean transportation, was postponed.

Sections B and C of this report follow:

SIR: I have the honor to advise your excellency that the seventh committee has had under consideration the accompanying report of the subcommittee on railroad transportation, and has unanimously decided to adopt the same and submit it to the International High Commission, with the recommendation that it be adopted.

I have the honor to be, sir, etc.,

W. G. McADOO, *Chairman.*

#### B. REPORT OF THE SUBCOMMITTEE ON RAILROAD COMMUNICATIONS

Mr. Chairman, the subcommittee to which was referred the topic of railway transportation have given preferential consideration to the Intercontinental Railway which has been, up to this time, the subject of deliberation in the various Pan American Congresses.

In the first congress, held in Washington in 1889-90, the committee on railway communication, on which were represented 12 of the American Governments; recommended, among other items, the following conclusions which were unanimously approved by the congress:

That a railway connecting all or a majority of the nations represented in this conference will contribute greatly to the development of cordial relations between said nations and to the growth of their material interests.

That the best method of facilitating its execution is the appointment of an international commission of engineers to survey the possible routes, to determine their true length, to estimate the cost of each, and to compare their respective advantages.

That in case the results of the surveys demonstrate the practicability and advisability of the railroad, bids for the construction either of the whole line or of sections thereof should be opened.

That the construction, management, and operation of the line should be at the expense of the concessionaires.

That the execution of a work of such magnitude deserves to be further encouraged by subsidies, grants of land, or guaranties of minimum interests.

That the railway should be declared forever neutral for the purpose of securing freedom of traffic.

That the approval of the surveys, the terms of the proposals, the protection of the concessionaires, the inspection of the work, the legislation affecting it, the neutrality of the road, and the free passage of merchandise in transit, should be the subject of special agreement between all the nations interested.

That so soon as the Government of the United States shall receive notice of the acceptance of these recommendations by other Governments, it shall invite them to name their members of the engineering commission.

The Congress of the United States granted the necessary authority, and the agreement of the Pan American Conference was ratified by several other interested countries. There was thereupon named a commission presided over by Mr. A. J. Cassatt, president of the Pennsylvania Railway, one of the most extensive and prosperous railway systems in the world. Senator H. G. Davis was chosen president of the financial section of the commission, and consecrated to the work great care and devotion. The commission expended about \$360,000 in topographical studies, plans, publications, etc. Three survey parties were placed in the field, and their work—carried on for several years and terminating in 1895—indicated that the approximate distance between New York and Buenos Aires, in accordance with the surveys made and utilizing existing railways, would be 10,471 miles, about half of which was completed and in operation.

The Second Pan American Conference, held in Mexico in 1901, ratified the agreement of the Washington congress, and authorized the designation of a new permanent commission. As president of this commission, there was chosen Senator Davis, who was president of the financial section of the preceding commission. The new commission named Mr. Charles M. Pepper, one of the delegates from the United States to the congress in Mexico, as a special commissioner to visit the various Republics included in the survey, to stimulate the respective Governments to the realization of the enterprise.

The third conference, in Rio de Janeiro in 1906, continued the permanent commission in Washington, and urged that when conceding their approval of railway construction projects the American Republics should endeavor to follow the intercontinental line so far as possible.

In the report of the committee of Washington to the Fourth Pan American Congress in Buenos Aires in 1910 a record was presented of the development of the American railways and the proportional increases in commerce during the 20 years since the first conference.

The report in question reads as follows:

In 1890, when the first practical steps were taken toward realizing the aspiration for intercontinental railway communication by the first conference, the total foreign commerce of the countries south of the United States from Mexico to the Straits of Magellan was approximately \$880,000,000. In 1890, this commerce was more than \$2,000,000,000. The increase has been a natural result of the railway construction which has helped to develop the resources of the different countries and thus to add to their commerce. Much of this railway construction has been either of trunk lines which form sections in the Pan American route or of lines which are branches of the general Pan American system and are feeders to it. The very great growth of trade in the last 20 years shows how traffic awaits railway facilities and how also it is created when they are provided. This increased commerce, which furnishes the basis for so much railway traffic, has not been limited to any section. All the Republics which would be connected by the Pan American Railway system have shared in it.

In 1910 the situation of the Pan American Railway was as follows:

The total distance from New York to Buenos Aires, following the actual construction in Mexico and adopting the alternative Pan American survey in Central America by the shorter Atlantic coast route, is 10,116 miles. Of this, 6,444 miles are in operation and 3,672 miles are either under construction or yet to be constructed to fill in the sections that are lacking.

Intercontinental Railway.	Mileage.	
	Built.	To be built.
New York to Mexico City.....	3,026	.....
Mexico City to northern border of Guatemala.....	843	.....
Northern border of Guatemala to Panama Canal Zone.....	508	675
Canal Zone to Puno on Lake Titicaca.....	542	2,820
Puno to Guaquil, Bolivia (water transportation).....	102	.....
Guaquil to Quilaca, Argentine Republic.....	363	177
Quilaca to Buenos Aires.....	1,060	.....
Total.....	6,444	3,672

The preceding table shows that the sections corresponding to the United States, Mexico, and the Argentine are finished, and that the part corresponding to Bolivia is about to be completed.

The Fourth International Conference of American States adopted the following resolution:

The Fourth International Conference of American States, assembled at Buenos Aires, resolves:

First. To extend the period of existence, together with all its attributes, of the Pan American Railroad Committee at Washington, to which the conference expresses its thanks for the important services it has already rendered.

Second. The resolutions of the Third Conference of American States in regard to this matter are confirmed.

Third. Considering the high moral and material scope of the full accomplishment of this important project, the conference charges the permanent Pan American Railway Committee at Washington with the collection, as speedily as possible, of the reports and technical and financial data necessary for the drawing up of a definite scheme and estimates for the construction of the work, and urges the countries interested in its accomplishment that they adopt and communicate to the Permanent Pan American Railroad Committee the most effective measures relative to the guaranties or subsidies which they can offer for facilitating the attainment of this great common end, in order that the said committee, having regard to such communications, may suggest the practical form of the solution of this problem, which would be impossible, or at least of very remote, realization, if left entirely to the isolated action of some of the countries especially interested.

The agreement was approved in full session on August 11, 1910. Shortly after, on the 20th of the same month, the Buenos Aires Conference approved a motion in accordance with which the Fourth International Conference of American States desires to "urge the American Governments to prosecute and hasten the work of the Pan American Railway according to a fixed and definite plan."

This subcommittee, believing that the International High Commission should renew the expression of great desire indicated in the resolutions mentioned, proposes to take a further step toward the realization of the enterprise. In order that the necessary technical and economic studies be made, and in order that there may be determined the construction costs, the probable traffic, and the probable revenues of the various railways which make up the Pan American system for presentation to the consideration of capitalists, the permanent committee in Washington should name engineers of various nationalities, and there should be included among these engineers the most competent known in the various countries. By reason of the character of the Pan American Railway, which is of common interest to all the Republics of the two continents, the subcommittee considers it equitable that the cost of the surveys, which is relatively insignificant, should be borne by all the countries in proportion to their populations.

The Pan American Railway is not the only one of vital interest to our countries. Of no less an interest are the international railways which, without forming a direct part of the Pan American system, connect our Republics with one another, and promote among them political and commercial relations of the greatest interest. It may be possible that the international railways do not offer the same value to all the countries, and there are even occasions when they may be competitive in character. However, the construction of railways, even as the opening of roads, lines of navigation, and all other means of communication, always contribute to the development of the public wealth. This subcommittee therefore considers that it is advisable to harmonize any real or apparent conflicts of interest, creating for this purpose mixed commissions and charging

them with the study of the tariffs, railway regulations, and in so far as may be advisable, those customs conventions which may affect the railway interests. This subcommittee, in view of the previous brief considerations, has the honor to recommend the following resolutions:

1. *Resolved*, That the Governments which have not yet done so ratify the agreement adopted at the Third International Conference of American States of Rio de Janeiro, to the effect that in granting their support to the construction of railroads the American Republics should prefer wherever possible those which follow the projected intercontinental line.

2. That the desirability be urged of an early ratification of the agreement adopted at the Fourth International Conference of American States held at Buenos Aires in 1910, under which, in view of the great moral and material results certain to follow the building of the Pan American Railway, the appointment of the permanent committee in Washington was confirmed and the countries interested in the realization of its work were urged to offer such subsidies as they could in order to facilitate the carrying out of this common purpose.

3. That the permanent committee at Washington appoint new engineering units to make the technical surveys and economic studies necessary to determine the route, the cost of construction, volume of trade, and probable revenue of the lines to complete the Pan American Railway, on the understanding that the expenses incurred thereby shall be defrayed by the different American countries in proportion to the population of each, according to its last official census.

4. That the desirability be pointed out of stimulating the construction of international railroads which do not form a direct part of the Pan American Railway but which will connect the nations of this continent with one another and thus increase their political and commercial relations.

5. That States contiguous to each other and traversed by international railroads establish mixed boards to study the rates, railroad regulations, and as far as possible such customs agreements as may be required because of the international character of these lines.

LUIS IZQUIERDO.

EUSEBIO A. MORALES.

NORBERTO PIÑERO.

C. A. BUENAÑO.

JOSÉ LUIS TEJADA.

SIR: I have the honor to advise your excellency that the seventh committee has had under consideration the accompanying report of the subcommittee on cable rates and wireless telegraphy. It has unanimously decided to adopt this report and hereby begs to submit it to the International High Commission, with the recommendation that it be adopted.

W. G. McADOO, *Chairman*.

#### C. REPORT OF THE SUBCOMMITTEE ON CABLE RATES AND WIRELESS TELEGRAPHY.

##### CABLE AND TELEGRAPH RATES.

1. *Resolved*, That one and the same domestic rate within each country be established.

2. That an international agreement for the extension of telegraphic lines between adjoining States be entered into, so as to facilitate communication and to organize an international service at reduced and uniform rates.

3. That the European system of transmission and terminal rates be applied, wherever possible, on the American Continent; and if this be impossible, that cheaper rates than those fixed for international service outside of Europe be fixed, allowing a greater reduction for press service.

4. That the telegraph service be as far as feasible under governmental control, and therefore that where the telegraph lines in any country are partly under governmental and partly under private control, the Governments aim to acquire the private lines upon equitable terms so as to create a homogeneous and efficient service under gov-

ernmental control; that with this end in view, no new concessions for telegraph lines be granted to private parties.

5. That the American Governments be urged to take such action with reference to the service of the cable companies as will tend to increase the territory served and to reduce the rates.

#### WIRELESS TELEGRAPHY.

1. *Resolved*, That for reasons of national safety it is desirable that wireless stations be the exclusive property of the several Governments.

2. That a meeting be held in Washington of the directors of the wireless services of all the countries, for the special purpose of studying and proposing to their Governments the adoption of whatever science and experience may now consider favorable to the establishment of wireless communication between the several countries of America and between America and the other continents.

DUNCAN U. FLETCHER.  
ALFREDO ECHAGÜE.  
FLEURY FEQUIERE.  
GUILLERMO LYONS.

Section (b) on railroad communication was unanimously approved.

Dr. Echagüe, rapporteur of section (c) of the report, explained that owing to the technical nature of certain recommendations he would not venture to explain the report in detail, but would place himself at the disposition of any delegate desiring further elucidation.

Section (c) was then unanimously disposed of.

The memorandum on these subjects presented by Senator Fletcher contained technical data submitted by the Navy Department of the United States and outlined a comprehensive plan for wireless communication between all the American Republics by means of one central distributing station at Darien and five substations located at Washington, Guantanamo, Guatemala, Pará, and Buenos Aires.

The full report follows:

There is nothing which illustrates the forward steps in human progress like the scientific achievements in the field of that mysterious force, electricity. No fact more clearly shows the evolution of man's powers than that he is able to send messages through the air a distance of 8,000 miles.

It is important, not only that there be means of communication between countries who would be friends and serve each other on terms of equality and honor, as President Wilson so forcefully pointed out in his world message delivered at Mobile before the Southern Commercial Congress in October, 1913, but it is equally important that such communications should be both reliable and quick.

Another consideration entering into the problem also is that it must not be too expensive. If the cost is excessive, there will be a limitation on the use. The means might as well not exist if its use is so costly as to become practically prohibitory. This difficulty is one of the first to encounter. The initial expense of establishing the means, the comparative small returns at the outset, the risk that the business will develop inadequately and too slowly, are the discouraging factors. Once established and in operation there is little doubt that the facilities will be found invaluable and equally little doubt that, at reasonable rates, the business would expand and grow to proportions not now contemplated.

It may be stated broadly that one effective method of improving permanent means of communication for commercial purposes between North, Central, and South America would be to extend existing cable



service to points not at present served, and to reduce rates as far as possible. Whether this will be done until there is an increase in the volume of commercial business, is a question, and whether the extension of the service must not precede the expansion of the business, is also a question. It would be advisable to induce, if possible, existing companies to extend their lines so as to render service to all South America, and the second step would be to induce these companies to establish equitable rates. Informal negotiations with the companies or an international agreement might accomplish results. The cable situation as it now stands is about as follows:

(a) Service to Colon and thence to all points on the west coast of South America and to Buenos Aires, via the cables of the Central South American Telegraph Co. (American), is rapid and certain. The rates are rather high but not excessive in view of the great distances.

(b) Brazil is reached via the Western Telegraph Co.'s cables from London or Lisbon. The service is good but the rates, especially both north and south from Pernambuco, are excessive. It is understood that in 1892 the Central & South American Telegraph Co. purchased the Trans-Andine Telegraph Co., the lines of which connect Valparaiso and Buenos Aires. Thus Buenos Aires and the United States were connected by an all-American cable. Prior to this time cables to the United States from Argentina were sent over the lines of the River Plate Telegraph Co. to Montevideo, from Montevideo to Brazil, and thence to Europe and the United States. The Western Telegraph Co., an English corporation, obtained from the Brazilian Government in 1893 an exclusive concession for submarine telegraphic communication between Brazil and Argentina. This concession terminated in 1913, but it contained a clause which maintained it in force until renewed or canceled by the Brazilian Government. The concession has not been renewed.

The Central & South American Telegraph Co. presented a petition asking for leave to lay two cables, one from Rio to Buenos Aires and one from Santos to Buenos Aires. When it appeared likely that the Brazilian Government would grant the petition of the American company, the Western Telegraph Co. sought to enjoin the Federal Government of Brazil from granting such concession (Sept. 27, 1914). The case is now pending in the supreme court of Brazil.<sup>1</sup> If the English company loses this action, there will be an all-American cable line from Rio to the United States, and there will no longer be need of depending upon European cable companies.

In 1909 the Argentine Government granted to the Western Telegraph Co. a concession for a cable from Buenos Aires to Ascención Island, together with a general 25-year preferential clause in favor of the Western Telegraph Co. over any other company proposing foreign cable lines. At present, it appears, the Western Telegraph Co. in Buenos Aires maintains a discriminating rate against messages from the United States over the lines of the Central & South American Telegraph Co.

(c) Service to points along the north coast of South America, including Colombia, Venezuela, the Guianas, and Brazil is poor and the rates are high.

<sup>1</sup> Since the above was written, the Supreme Court of Brazil, in November, 1916, decided wholly in favor of the Central and South American Telegraph Company.

The French cable crosses the island of Haiti by a land line which is often in trouble. When the land line is intact the service to Caracas is excellent, but the rates beyond that point are very high.

(d) Central America has poorer service than any part of South America. There are no cables at all to points on the Atlantic coast, and cables of the Central & South American Telegraph Co. touch at but three points on the Pacific side connecting with Panama and Salina Cruz.

If the Central & South American Telegraph Co. were to extend its cables from Colon to Santa Marta in Colombia and on to Maracaibo and Caracas, the service to the whole of South America should be reasonably adequate, provided equitable rates can be established either by informal negotiation with the several companies concerned or, failing in that, by the action of an international conference.

#### INTERNATIONAL RADIOGRAPHIC SYSTEM.

It is believed that distinct commercial advantages would result from the establishment of an inter-American radiographic system. It would appear that any such system should be controlled by governmental authorities.

The Secretary of the Navy of the United States, Hon. Josephus Daniels, has expressed the view that:

The experience of this department, gained through the operation of two high-powered long-distance radio stations which are used exclusively for commercial traffic in addition to the operation and administration of the Navy's system of high-powered stations which are, primarily, for military use, has demonstrated:

(1) That very efficient telegraphic service may be rendered by radio over great distances.

(2) That high-powered stations used for commercial traffic over great distances should be limited in general to handling that class of messages only.

(3) That to insure that this radio traffic is handled promptly and expeditiously, the controlling and operating agency must be the same as that controlling and operating other high-power stations, both naval and commercial, as one controlling administration can assign suitable times for the various stations, thus eliminating interference, which is the great obstacle to reliable and rapid service.

It is my opinion that the most successful operation of the service you suggest would be obtained by having the proposed chain of stations under the direct control and operation of the Government, both in this country and in those Central and South American countries which might be parties to the undertaking.

#### GENERAL STATUS OF WIRELESS STATIONS, WITH THEIR ORGANIZATION AND OPERATION IN CENTRAL AND SOUTH AMERICAN COUNTRIES.

**COLOMBIA.**—In Colombia there exists now a station at Santa Marta, operated by an American company, the United Fruit Co. This concession has about 17 years to run, after which the station will revert to the Colombian Government.

There is a station at Cartagena belonging to a German company, but now closed by the Colombian Government to assure its neutrality. This concession has about 17 years to run, after which the station will revert to the Colombian Government.

There is also a station constructed by a German corporation for the Colombian Government on the island of St. Andrews, but not now in commission.

The Colombian Government has contracted with English manufacturers for the erection of low-power stations at Arecua and

Orocué, and it is proposed to erect a station at Bogotá, for which no contract has as yet been given.

**HONDURAS.**—At present there are only two high or medium power stations in Honduras. One of these is located at La Ceiba, erected there by the fruit firm of Vaccaro Bros., and the other erected at Tela by the United Fruit Co.

The Government of Honduras has recently decided to erect three small stations along the coast, to be located in the ports of Utila, Trujillo, and Roatán. These stations are to be of small power and are intended primarily for transaction of Government business between the north coast ports.

**BRAZIL.**—It is understood that all Brazilian wireless-telegraph stations are under the control of the minister of public works, department of telegraphs. They are as follows:

Stations.	Approximate range.	Service.
	<i>Kilometers.</i>	
Amaraline, Bahia.....	800	General commercial.
Babylonia (at capitol).....	800	Do.
Cabo de São Thomé, State of Rio.....	400	Do.
Fernando de Noronha (Island).....	400	Do.
Juncão, Rio Grande do Sul.....	500	Do.
Monte Serrat, São Paulo.....	200	Do.
Olinda, Pernambuco.....	500	Do.

There are local stations for commercial use in the States of Para, Amazonas, and the territory of Acre:

	<i>Kilometers.</i>
Manaos, Amazonas.....	200
Rio Branco, District of Acre.....	200
Xapury, District of Acre.....	200
Senna Madureira, District of Acre.....	200
Porto Velho, Matto Grosso.....	200
Belem, Pará.....	200
Santarem, Pará.....	200

The Federal Holding Co. of the United States is endeavoring to obtain a concession from the Brazilian Government for the erection of a high power and other radio stations in that country. One of the terms of this concession is that the company will fix a commercial rate for radio telegrams between its Brazilian station and those which it may possess in the United States at 66 $\frac{2}{3}$  per cent of the rate charged by the submarine cable companies to same points.

**URUGUAY.**—The Government of Uruguay has established a State monopoly of wireless communication.

Uruguay has lately granted a concession to the Federal Holding Co. of the United States to build a high-power radio station in that country.

There are permanent wireless stations at the following places: Cerrito de la Victoria Revero, Paso de Los Toros, Isla de Lobos, Banco Inglés, on the estuary of the Plata.

Temporary stations exist at Melo, Trienta y Tres, Tacuarembó, and La Paloma.

**PERU.**—Peru has a number of small stations, none of which have very long ranges. They are all under the operation of the Government. The list is up to date in the International List of Radio Stations.

**GUATEMALA.**—The latest information from Guatemala is to the effect that the Government will allow no radio station in Guatemala which is not directly under its control.

There is a medium-power station in the city of Guatemala.

**VENEZUELA.**—Strong efforts have been made by representatives of the German Telefunken Co. to obtain concessions in Venezuela, but recent reports indicate that these have not been successful. It is known, however, that the Government is taking an interest in the report to the effect that Argentina has contracted with the Federal Holding Co. of New York to erect a radio station to communicate with that country.

**PARAGUAY.**—Wireless stations of the Telefunken systems (German) have been erected at Asunción and Concepción, and a third station of equal power is being erected at Encarnación. These each have a range of 500 kilometers by day and 1,000 by night.

**ARGENTINA.**—There are no wireless installations now operating in this country except the Government stations. Argentina has recently granted a concession for a high-power wireless station to be erected in the vicinity of Buenos Aires for direct communication with a similar station to be erected in the vicinity of New York by the Federal Holding Co.

**CHILE.**—The Government of Chile is entirely in accord with the ideas of the United States on the subject of wireless communication, and has sent a special delegate, who is now in the United States, to attend the meetings of the various representatives appointed by the different Governments.

Radio communication in Chile is entirely in the hands of the Government and is administered by the department of the marine.

**BOLIVIA.**—All radio stations in the service of Bolivia are owned by the Government—four of the Telefunken (German) system and two of the Marconi system.

It is planned to erect another station near La Paz.

As to rates on radio messages, the universal practice is to establish a word rate for each station, and manifestly the total charge on a message would be dependent upon the number of stations a message passed through; and unless great care was exercised it might develop that the sum total of each individual station rate would be greater than the existing cable rate, which it is now desired to have lower. Therefore the only practical solution would seem to be to establish a through rate between various countries; that is to say, a through rate from one country to another country and the total tolls would be pro rated between the stations taking part in the communication.

It is proposed by students of this question to divide the territory embraced in the American republics into zones of radio communication, with one control radio station for each zone, which latter will receive and relay radiograms to destination as may be necessary and in accordance with specific regulations drawn up by the committee. There will be one main station for the entire hemisphere, located in as nearly a central position, geographically, with reference to all the American republics, as may be practicable. Such main station shall be capable of direct communication with central stations in each of five proposed zones, covering the territory of the interested governments. The main

station might well be that already established in the Panama Canal Zone. The zone central stations should be at the following places, tentatively: Buenos Aires, Para, Guatemala, Guantanamo, Washington. Each of these zone center stations should serve as receiving and distributing stations for the stations in their respective zones and would be capable of direct communication with the main station. In each country, preferably at the capital, there would be a central controlling and distributing station, which would be capable of direct communication with the appropriate zone center station. This same system of zones and distributing stations would be used in each country, so that uniformity would be observed in the operation and traffic features throughout the hemisphere.

It may be said that an organization similar to that proposed has been tried out in the United States with highly satisfactory results.

In order to render the proposed plan of operation adaptable to increasing needs (especially commercial), regulations to govern the operation of special long-distance transmission between stations used primarily for commercial messages might be drawn up which would include provisions:

- (1) For the independent operation of such commercial stations.
- (2) For their amalgamation with the main system at such time as the interested governments may designate.
- (3) For acceptance of official messages of the various governments at all times at reduced rates, such official messages to have precedence over commercial messages.
- (4) For the employment exclusively of operators who are citizens of the American republics.

The memorandum of Dr. Echagüe called attention to the fact that Argentina has already indorsed the principle of a single uniform telegraph rate for domestic purposes. Article 121 of the telegraph law provides: "There shall be a uniform rate for all telegraph dispatches, irrespective of the distance." In consonance with this theory the postal and telegraph authorities of Argentina required the telegraph companies to grant a single uniform rate for all domestic business, and provided that an equitable distribution of profits should be made whenever two or more lines intervened in the transmission of a message. This régime was extended by international agreement to Paraguay in 1892, Bolivia in 1897, Uruguay in 1899 and Chile in 1903. Dr. Echagüe dwelt on the need of defining the term "uniform single rates." This expression can not be understood to mean the same rate independently of the country of destination or the lines used, and it can only be hoped to attain a uniform rate between contiguous countries, such as Argentina, Chile, Bolivia, Paraguay, and Uruguay. An extension of this system to embrace far outlying countries until three or more lines were involved would so materially diminish the proportionate quota as to render any participation in such an international agreement almost fruitless.

While awaiting the result of present private initiative, an analysis of the situation may not be out of place. The first difficulty in establishing an intercontinental radiographic service is that the

expenditure necessary for the equipment and maintenance of high-power stations would far outweigh the practical and economic results obtained. Secondly, the configuration of the American Continent must be borne in mind. Various stations would be required to operate between points throughout the vast area of this continent. Thirdly, the economic development of the American States does not yet warrant this step.

The Uruguayan delegation urged that not only should private concerns reduce their rates, but that governmental activity should supplement such action. This is the situation in Uruguay, where the exclusive concession of the Western Telegraph Co. will expire in 1917. The Government of Uruguay is considering the terms on which an extension of this franchise will be granted, and in doing so will keep in mind a twofold purpose: A reduction in rates and governmental regulation.

The Colombian delegation noted the high rates charged. The rate per word between Buenos Aires and Washington, a distance of 5,600 miles, is \$0.72, while that between Buenos Aires and Colombian points is \$0.67 for a distance of only 2,400 miles. Colombia has three regular telegraphic stations belonging to two North American companies and one German company, located at Santa Marta, San Andrés, and Cartagena, respectively, this last mentioned being a high-powered station communicating directly with New York. In so far as land communication is concerned, Colombia ratified the Caracas convention of 1911 providing for extension of domestic rates between Bolivia, Ecuador, Peru, and Venezuela with a 50 per cent rebate for press service.

#### IV.

The United States delegation, through its chairman, here offered the following resolution:

*Resolved*, That the International High Commission, recognizing the supreme importance of a knowledge of the Spanish, Portuguese, and English languages by the people of the two American Continents, recommends to the several States the necessity and importance of compelling by law the teaching of Spanish, Portuguese, and English in all public schools and colleges which are supported by or aided in any manner with public funds.

The resolution was unanimously adopted, and adjournment taken at 11.25 a. m.

#### FIFTH GENERAL SESSION, APRIL 10, 1915.—AFTERNOON.

##### SUMMARY.

- I. Formal admission of Guatemalan delegates.
- II. Report of the seventh committee on ocean transportation.
- III. Consideration of report of sixth committee on labor legislation and the exploitation of petroleum postponed.

#### I.

After the approval of the minutes of the preceding session the presiding officer announced that the Guatemalan delegates to the conference, His Excellency, Juan J. Ortega, minister from Guatemala to Mexico, and Dr. Francisco Sánchez Latour, first secretary

of legation in Washington, had arrived that morning, and that their credentials were in due order. Their formal admission to the conference, was unanimously agreed upon.

## II.

The meeting then proceeded to consider paragraph A of the report of the seventh committee on ocean transportation, the discussion of which had been postponed from the previous session.

SIR: I have the honor to inform you that the seventh committee has had under consideration the inclosed report of the subcommittee on ocean transportation. The committee has unanimously adopted this report and desires to submit it to the International High Commission with the recommendation that it be approved.

I have the honor to be, sir, etc.,

W. G. McADOO, *Chairman.*

### A. REPORT OF THE SUBCOMMITTEE ON MARITIME TRANSPORTATION.

The subcommittee on maritime transportation has taken into consideration the reports on international merchant marine submitted by the delegations of Argentina, Chile, Peru, Uruguay, Salvador, and Venezuela. For the reasons given in these several reports, as well as such as may be added orally by the rapporteur, we recommend that the International High Commission adopt the following resolutions:

1. *Resolved*, That the nations represented in the Fourth International Conference of American States held at Buenos Aires ratify and carry into effect the resolution there adopted on maritime transportation.

2. That the American Governments adhere to those resolutions on transportation, such as that of the First Pan American Financial Conference of Washington, which serve to keep alive the interest of each of our countries in satisfying this vital and imperative necessity by mobilizing its own resources and contributing to the success of such measures as the other nations may be able to carry out.

3. That, inasmuch as the United States are at this time in a position to dispose of superior resources in meeting the need of an international merchant marine, such cooperation as the resources of each country will permit be offered by the other American nations. Whether their action takes the form of capital supplied or ships operated by their Governments, or is based upon a transaction involving private capital, their cooperation should be commensurate with their situation and be of such a character as to assure the immediate and practical realization of a service imperatively required by the economic situation of the continent.

4. That the several sections of the International High Commission be recommended to consider the measures proposed by the delegations of Chile, Uruguay, Salvador, and Venezuela for the development of navigation, in order that the result of this study may be communicated to the sections of the International High Commission of the countries concerned, and later given due consideration by the respective Governments.

ELEODORO LOBOS.

CUSTODIO DE ALMEIDA MAGALHAES.

MANUEL SALINAS.

D. BLANCO ACEVEDO.

Dr. Lobos, on behalf of the committee, spoke as follows:

The memoranda of the several delegations on the subject of an international merchant marine and the reports presented to the recent Pan American Financial Conference at Washington have covered practically every phase of this important topic of the program of the International High Commission. To say that it was a subject

of lively discussion even before the European war made its solution of vital urgency, forcing every nation to contribute with its traditions, its history, its interests, and even with its wealth, is to add nothing new. I would simply be voicing a fact independent of all wishes and all theories, which rises above trade policies, domestic differences, friendly rivalries, and the present and future mission of America in the progress of the world.

Beginning with the colonial period and down to the days of nascent nationality, from the agitations of the first age to the initial steps in the development of organic life, we have lived in a state of isolation; we have contemplated nature eagerly awaiting the cooperation of capital and labor; subordinated to other efforts and other interests, we have dreamed of the future and have let the present slip by in fruitlessness at times and in disquietude at others. This disquietude develops mutual lack of understanding or distrust which grows because of inaccurate knowledge of one another until some day the definitive political characterization of these nations is attained.

Political relations should be followed by economic. Such has always been the view of the statesmen of all the American nations here represented. It would be a fruitless task to endeavor to explain the delay. All that we are now concerned with is that it has been found necessary once again that we should get in touch with one another, that we should communicate with one another in order to understand one another, through time and distance, in the midst of the din and dangers of the hideous European conflict, and in the brilliant future which peace and justice hold out as the destiny of America.

We are engaged in a common task. We can not, nor should we, step backward. Nor is it necessary to justify once more our undertaking. From Alexander Hamilton to William Gibbs McAdoo, every statesman from the great republic of the north has pledged his cooperation, and this has been particularly true of those who have visited us in recent years: Root, Roosevelt, and Bryan. We should count upon them. The same may be said of all the South and Central American Republics whose views must have been familiar to Sarmiento, when as far back as 1849 he advocated a merchant marine for Chile—not being at that time in a position to do so for his native land—in terms which prove his foresight in considering it indispensable to international life.

The United States are to-day holding out to us the solution of the problem. It is but natural that they should have the right to elect the most practical formula; it is equally natural that having selected this subject to prove their accurate appreciation of the conditions obtaining in America and the energy with which they will use this situation to promote the economic prosperity of the other nations of the continent, we should refrain from pressing the urgency of the case. The rise in ocean freight rates of 900 per cent speaks volumes in itself.

In any event, the cooperation to be lent by each American State toward the solving of this American problem is certain and positive. As our steamship communication with the United States and with Europe constantly decreases, as the countries at war daily withdraw their ships, the disaster grows greater, as greater, too, is the need to



stem it. The committee on maritime transportation in accordance with the convention of the Fourth International Conference of American States and bearing in mind present conditions, has realized that the establishment of two steamship lines between New York and Valparaíso and intermediary ports, on the one hand, and between New York and Buenos Aires and intermediary ports, on the other, is a pressing need. It has realized likewise that the bill to invest \$50,000,000 in meeting this need introduced in the Senate of the United States, without excluding such proportionate assistance as the other American nations may be able to give, is receiving the approval of public opinion and of the several governments. The cooperation of the several States, all with the same clearly defined general purposes of trade in view having been secured, the wise organization of the project can offer no special difficulties. Extraordinary conditions call for extraordinary measures.

As we have said, since the United States have the greatest resources and since they have moreover taken the initial step, it is logical that the countries to be benefited should lend their cooperation. This cooperation, of course, does not preclude any measures any one of the nations may hasten to take to fill a need which can not be longer ignored. The Argentine Government, during the administration of Gen. Mitre and through the intermediary of Sarmiento, its minister at Washington, sought half a century ago the support of the United States Government in extending the New York-Rio de Janeiro line to Montevideo and Buenos Aires, offering a subvention for this purpose. It is, therefore, quite in keeping with the policy of these eminent statesmen that the Argentine Government should lend its cooperation in the face of the more pressing needs and conditions of to-day.

The needs of the banking world have given rise in the United States to the Federal Reserve Act, which authorizes the State to subscribe the necessary capital, in case this be not forthcoming from the national banks. A similar situation is to be noted in Argentina in the case of the Banco de la Nación where the Government subscribed the shares not acquired by private capital. These two institutions will be complementary the one of the other, as they realize, in the case of the former, that it should extend its activities to long-term rural credits based on immovable property and farm products, and thus help both within and without the United States America's greatest industry—that which is entitled to the abundant capital on easy terms its present scientific progress demands; and in the case of the latter, that it should seek equal benefits for agriculture through the special agencies of rural credit systems, as is done in the other countries of the continent.

There is another advantage accruing from Government action in international trade. It facilitates the exercise of justice in the economic relations of peoples. If, as has been stated, evolution is the natural moral phenomenon par excellence, it is natural that the State should further it in the name of peace which is its mission, with justice and economic truth as the basis.

The United States, all the American nations, united in hearty cooperation, will at length realize the ideal of an economic policy both permanent and scientific; to-day in the establishment of a merchant marine in such a manner as to control the carrying industry

for greater service to other industries and capital; to-morrow in other international services "trying to be of use to one another and not trying to make use of one another," as President Wilson has said; and in all times to organize America economically for its own good and for the good of humanity.

In supporting the committee views on this topic, Dr. Salinas, on behalf of the Chilean delegation, recommended the establishment of freight and passenger lines either through the organization of shipping companies or through subventions to be paid by the Governments of the interested countries, in proportion to the cargo sent or received by each. These lines were to be established as follows: (1) From New York to Valparaiso, stopping at Habana, Colon, Guayaquil, Callao, Arica, Antofagasta, and other intermediary ports; (2) from New York to Buenos Aires, stopping at Pernambuco, Bahia, Rio de Janeiro, and Montevideo; (3) from Iquique to Rio de Janeiro, stopping at Antofagasta, Taltal, Valparaiso, Punta Arenas, Gallegos, Montevideo, and Buenos Aires.

Dr. Salinas pointed out that the only addition consisted in the inclusion of a special line to bring into touch the countries of the Pacific with those of the Atlantic seaboard. "No more pressing problem," he said, "faces the American nations to-day, and none which will more promote union, peace, and good will among them."

These proposals were seconded by Dr. Izquierdo of the same delegation. Two methods of procedure, he said, were open in dealing with this matter: (1) Subventions and special exemptions to private shipping concerns either already existing or to be established; (2) an "American" project, so to speak, which would comprise direct governmental action looking to the creation of a vast shipping enterprise in which not only the United States but all the other interested American countries would share.

Private capital, or at least private initiative, is the desideratum, but this capital has been slow and timid; no steamship lines have been established. On the other hand, it is urged that trade has not expanded because of the lack of steamship lines. Thus we have been going around in a circle. If, therefore, private initiative is to be preferred and is not forthcoming, some other means of supplying this vital need must be devised. He then referred to the legislative project pending in the Congress of the United States to establish a merchant marine. He regretted that the conference had not gone on record indorsing this legislative measure, independently, of course, of such cooperation as each American nation might lend in proportion to its resources.

Without committing himself as to which of the two methods advocated should be followed, he emphasized the urgency of the question now being debated and made an earnest appeal to the delegates there assembled to labor unremittingly on their return home toward obtaining immediate and effective action from their several governments to relieve this embarrassing situation.

Secretary McAdoo here addressed the conference as follows:

Mr. President, before you put this matter to a vote, permit me to say a word. There is no problem confronting the American

States to-day of such pressing and paramount importance to their interests as this problem of a merchant marine. Their trade and prosperity are seriously menaced already by the effects of the past two years. It is not merely an emergency problem; it is a fundamental question of the future development of the American States, and it rests upon the ability of these States to communicate with each other. You can not trade with each other unless you can communicate with each other, and you can not communicate with each other without adequate facilities. Since the outbreak of the European war there has been a gradual withdrawal of the European ships from the American service. That is a perfectly natural operation, because where governments are involved in a colossal conflict and their vital interests are at stake, they must, of necessity use every legitimate power they have for the conservation of their own interests. If, in order to protect their interests, they withdraw ships of their registry from service between the American States and put these ships into service of their own, whether it be of a military or naval or other character, we can not complain, so long as due regard is had for the accepted rules of international law. Our only complaint, in that case, must be against our own lack of foresight in not having made provision for just this kind of a situation. It is not possible to meet the immediate emergency confronting us, because the markets of the world have been swept by the farsighted capitalists who, knowing the opportunity for profit, have bought up every available ship and are to-day using them in their own service and are making so much money that they could not be induced to part with them.

While it will be difficult, therefore, to meet the pressing emergency of the moment, we should do something, and at the same time we should enter upon a policy—a sound economic policy—which will forever free the American States from dependence upon the flags of foreign powers for the protection of their own commerce and the protection of their own physical safety. That can not be done unless the States themselves make a determined effort to solve this problem. I myself favor private initiative in these enterprises. I believe thoroughly in giving private capital the freest opportunity to render this service, but private capital has not come forward to do so and, as a consequence, we must resort to the only other agencies at our command. What are they? They are the agencies of government. Governments are created to serve the interests of their people, and unless we use these agencies, which are the effective ones for immediate action, we will never accomplish anything in the solution of this problem.

Just after the outbreak of the war in August, 1914, the administration of the United States proposed a measure which would have permitted the Government of the United States to buy \$40,000,000 worth of ships. The bill introduced specifically provided that these vessels were to be employed in large part in furnishing the necessary communications between the east and west coasts of South America and the United States. Unfortunately, that bill did not pass. The reasons for its failure are immaterial; we need not discuss them here to-day. But I think we all realize now that no greater misfortune ever befell the Western Hemisphere than the defeat of that measure. A most serious blow was struck at the prosperity and commerce of

the two American Continents when that bill failed of passage. We now have a measure pending in the Congress of the United States which will, if enacted, enable the Government to create a merchant marine, but it will take time to build the ships and place them in operation; whereas there were plenty of ships available in August and November and December of 1914, and even in the early part of 1915, which could have been bought at very low prices; there are no such ships available to-day. Therefore, while a merchant marine will have to be constructed, we must nevertheless make a beginning. What has impressed me most favorably in the discussions of the committee, is the fact that the members of the delegations realize the importance of this problem. My one suggestion is this: That the delegates, upon their return to their homes, impress upon their Governments the views expressed here; that they urge their Governments to give serious thought to this problem, and that they consider earnestly the aspect of Government cooperation to bring about the right solution. If we cooperate, if we devote ourselves immediately to the task, with a determination to succeed, I am sure that we can solve it.

So far as my own country is concerned, we are not seeking assistance in doing what we may ourselves be able to do, nor in what we are willing to do to serve you and to serve ourselves, because our resources are ample to provide the necessary means to enter upon the policy we have been discussing. I earnestly hope the decision may be in favor of action through governmental agency. With cordial cooperation on the part of our respective Governments, interest in this great problem, this vital problem, will be greatly stimulated and its early solution will be assured.

The situation was concisely summed up by the Brazilian minister of finance in the words "The American Republics are practically in the position of beleaguered towns." He wished to assure the conference that whatever form the motion took the other nations of America could count upon Brazil's cordial cooperation. He would make it a special point earnestly to urge early action by his Government.

The Salvadorean delegate, Dr. Lima, requested the inclusion of Central America in the committee report. Dr. Lobos, however, believed that the resolutions were sufficiently comprehensive to cover Central America.

Paragraph A of the committee report was then unanimously adopted.

The reasons for the inclusion of this topic in the program are clearly set forth at the beginning of the memorandum prepared by Dr. Eleodoro Lobos: (1) The absence of any international body to deal with transportation problems, resulting in its greater urgency than the local regulation of commercial and economic matters; (2) the deep interest in this problem manifested since the First Pan American Financial Congress; (3) the need of recommendations for a broad international policy in this matter, rather than mere uniformity of legislative treatment thereof, consequently requiring much discussion and study.

While it is recognized that this problem necessarily assumes a peculiar aspect due to local needs and national political considerations, it is nevertheless felt that these aspects may be sufficiently harmonized. A satisfactory solution is possible so that "nations lacking the capital necessary for immediate investment in an enterprise so vital to their existence may supply from their superabundance the raw products so urgently needed by other nations." In this way it is hoped that a successful cooperation of capital and industry may be found.

The Fourth International Conference of American States dealt very fully with this matter, and recommended the establishment of connecting lines between such ports as have no American steamship service, in order that there might be a continuous and unbroken connection from north to south on both coasts, Atlantic and Pacific. The Argentine memorandum fully indorses these views, quoting from the remarks of Mr. Lewis Nixon, United States delegate to that conference, to the following effect:

The commerce now carried on between the nations of the American Hemisphere is increasing rapidly and with such increase there is forming an ever-strengthening control of its carriage by ships of another hemisphere.

With such increase unchecked there will in time be built up a system powerful enough to replace competition by dictation. With buying, selling, banking, insurance and transportation developed to a degree that defies successful or possible exercise of such factors of commerce by ourselves, we shall be reduced to the parts of simple consumers and producers, giving of our labor and resources to enrich alien peoples. In many cases the disposition and the price received by the producer are fixed by the carrier, so essentially necessary are trade connections and distributive agencies to the great maritime fleets of the present day, and such powers are of course used when possible to advance the material interests of their own countries.

The resolutions adopted at the Fourth International Conference of American States follow:<sup>1</sup>

First. Direct commerce, subject to joint regulation by the States carrying on such trade, should be established at the earliest opportunity.

Second. It is recommended that the States represented at this conference should conclude conventions among themselves providing for direct and adequate steamship service; the vessels to be built of the highest speed and largest size consistent with economical commercial service.

Third. To recommend that in all cases where one or more of the States represented at this conference shall establish, through State initiative, a line or lines of steamers to one or more of the States, that such vessels shall enjoy all the privileges at ports of call that are accorded to vessels flying the flag or flags of such ports.

Fourth. That in future no rebating railway privileges shall be granted by any railways, whether private or Government controlled, which shall not be granted to vessels entering and clearing the ports of such States, running in direct trade from other States represented at this conference.

Fifth. To recommend to the States represented at this conference a study of the conditions and means by which reciprocal liberty of commerce may be established in the coasting trade of the American Republics, and that the result of such study be laid before the next American conference.

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<sup>1</sup>S. Doc. 744, 61st Congress, 3d Session, p. 186 ff.

Sixth. To recommend that the States now having contracts in force providing for optional steamship communication with ports of other countries of America, demand obligatory and rapid service with such ports.

Seventh. To recommend the establishment of connecting lines between such ports as have no American steamship service in order that there may be a continuous unbroken connection from north to south on both coasts, Pacific and Atlantic, and by governmental action to induce all connecting lines to cooperate in such manner as to avoid loss of time and intermittent handling of freight, mail, and passengers.

Eighth. To recommend that in all cases in which vessels proceed in one direction only from the ports of one American State to another that reciprocal measures shall be taken to provide return cargoes warranting return service.

Ninth. In view of the immense importance of the development of steamship lines as factors contributing to facility and permanence of flourishing trade conditions, it is recommended that direct banking and cable service be established and that a common system of weights and measures be adopted.

Dr. Lobos then turned to the means of realizing this need. "It is hopeless to attempt to build up a merchant marine without governmental cooperation; equally vain is it to contemplate establishing it without cheap iron, fuel, and wood." While Government ownership may not be "a blessing," Dr. Lobos holds it is certainly "a necessity." The memorandum then deals extensively with the substitutes for this governmental control—subsidies, exemptions, and special guaranties. All of them have proved insufficient to meet the demand. A careful analysis is then made of the countries in a position to embark on such an enterprise for themselves. The United States are perhaps alone in their ability to meet the multiple requirements essential to building up within a reasonably short space of time an adequate merchant marine. Elaborate tables giving the import and export figures of the several American nations are appended to show to what extent each may contribute to this final result. The memorandum advocates, in closing, such cooperation with the United States in their effort to supply the need of ships as the other American countries may offer in proportion to their resources and present economic development.

A brief memorandum on this subject was likewise submitted by the Nicaraguan delegation. The Pacific coast ports of Nicaragua are served by one line, the Pacific Mail Steamship Co., but the service is most irregular and subject to long delays. A graphic illustration of this was furnished by the tardiness with which the Nicaraguan delegation arrived at the conference. The steamer on which the delegates were scheduled to sail was due at Puerto Corinto on February 26, but did not arrive till March 10. The time consumed in going from San Francisco to Panama was 40 days, in itself an unanswerable argument for better steamship service. The memorandum advocates the establishment of regular and frequent traffic between San Francisco and Panama, with stops at the larger Central American ports.

On behalf of the Uruguayan delegation, Col. Guillermo Lyons and Dr. Daniel Blanco Acevedo submitted a memorandum on this topic. "It is an unquestioned fact that foreign trade grows in direct

ratio with the rapidity and regularity of the facilities for the transportation of mail, passengers, and merchandise." This fact, the memorandum holds, has been responsible for the exceptional growth of European trade, and particularly that of Great Britain, with South America. A corresponding expansion of United States trade with Latin America can only be expected from the establishment of adequate steamship lines. To attain this end two ways are open: Premiums or subventions and exemption from taxes and duties. The European nations have generally adopted the first measure, and it is noticeable that the nations enjoying the position of ocean carriers—England and Germany—have followed this procedure. The Uruguayan delegation recommended, however, the other alternative, namely, the exemption of duties. It advocated the establishment of a direct regular steamship line to carry passengers, freight, and mail between New York and Buenos Aires, with stops at Rio de Janeiro and Montevideo, with the establishment of a subsidiary line to supply the needs of Paraguay. A weekly sailing from each terminal port on a fixed day; ships of 4,000 tons with an average speed of 16 miles per hour; five year exemption from Federal dues; registry to be permitted in any one of the countries served by the line—such were the requisites suggested by the memorandum.

A statement of conditions prevailing since the financial conference of Washington was submitted by the Colombian delegate. He reported as follows:

1. The situation on the Atlantic seaboard has shown a marked improvement with the establishment of a Colombian navigation company, whose ships for the first time have entered New York harbor under the Colombian flag. It is hoped to increase the number of ships in service to four. This would have an excellent effect on competing European and United States lines.

2. Traffic on the Pacific has been almost exclusively carried on by the Pacific Steam Navigation Co. at excessive rates. The lack of competition on the Pacific coast is due to the fact that other companies whose boats reach Panama do not touch at Colombian ports, as they wish to avoid the quarantine imposed. With the southern portion of South America on the Atlantic coast there is practically no communication at all. Prior to the war a passenger for the Rio de la Plata could effect a more rapid journey by going first to Europe: and even to-day it is more profitable to go from Puerto Colombia to New York and thence to La Plata.

The Honduran delegate presented detailed information based on a questionnaire submitted by the Secretary of the Treasury at the close of the First Pan American Financial Congress. It emphasizes the need of increased facilities between San Francisco and Amapala. The Pacific Mail Steamship Co. has boats sailing from Balboa to San Francisco and vice versa twice a month, but the communication is susceptible of constant delays and interruptions. He recommends a service every 10 or 12 days between Valparaiso, Balboa, and San Francisco.

The Venezuelan memorandum shows that Europe had obtained a strong hold upon the carrying trade of this part of the country for many years. The United States lines have hence been compelled to meet long established conditions, and the work must accordingly be a slow and uphill one. The foreign trade of Venezuela

with the United States reached 34 per cent of the total volume, and it is wholly probable that a far greater amount of trade could be done between the two countries if cheaper transportation facilities were provided. The present service is wholly inadequate to meet the needs; the ships are old and slow. To this is added the circumstance that with the present year bottoms will have to be found for exporting the products of the four large central sugar factories, whose production this year will not be less than 12,000 tons. Nor should the personal side of this question be neglected. Merchants of both countries would, if improved ocean transportation were afforded, be brought into touch with one another to the mutual advantage of both countries. In its sincere desire to aid in the development of a merchant marine for the American continent, the Venezuelan section of the commission declares its Government to be willing to offer several administrative privileges which should greatly foster the upbuilding of such a marine. Among these may be mentioned exemption from all port dues, Federal or municipal, for a period of 10 years for every ship of over 5,000 tons, the clearing of any ship outside of the regular hours, free of charge, excepting only national holidays or during the night; the exemption from tariff duties of raw materials, machinery, foodstuffs, and manufactured products when imported in large amounts.

The Peruvian delegate, Sr. C. A. Buenaño, offered the following concrete plan:

First. The organization of a corporation with a capital stock of \$100,000,000 gold, divided into shares of a par value of \$1,000 each, to be issued in two series of \$50,000,000, respectively, such corporation to be authorized to construct, buy, charter, acquire, and also to operate, lease, charter, or otherwise dispose of vessels of every description, more especially adapted for cargo purposes, to be employed in the overseas trade of Pan American countries.

Second. The principal office of such corporation to be located in the city of New York, with branch offices in all of the countries interested.

Third. Fifty-one per cent of the capital stock of such corporation shall be subscribed by the governments of the Pan American countries, the amount of the subscription of each to be in proportion to the average foreign trade of each, between the years 1903 and 1913, inclusive, and to be paid for in cash, and in gold, as called for by the board of directors. Ten per cent of such capital stock to be paid in before the corporation begins business. The remainder of the capital stock shall be offered to the public upon such terms and conditions as may be determined by the board of directors. The portion not subscribed for by the public shall be taken by the Governments in the manner first mentioned.

Fourth. The affairs of such corporation shall be managed by a board of directors composed of five members. One selected by, and to represent, the countries washed by the Atlantic Ocean, another selected by and to represent the countries washed by the Pacific Ocean, another selected by and to represent the countries washed by the Caribbean Sea and Gulf of Mexico, and a fourth to represent the United States. These four will select the other. To have a voice in the selection of a director, the Government must hold at least 1,000 shares of stock.



Fifth. The crews and officers on such vessels must all be Americans.

Sixth. Such vessels shall be registered and carry the flag of the countries, respectively, interested in the corporation in proportion as to tonnage, to the amount of capital stock held by the countries, respectively.

Seventh. Subventions for carrying mails shall be granted by the countries, respectively, in proportion to their foreign commerce, and shall be adjusted every five years.

Eighth. The countries concerned shall cooperate to make their laws, regulations, and requirements as to registration fees, tonnage dues, port charges, and terminal expenses as nearly equal and uniform and economical as possible.

Ninth. The shares of stock subscribed by the Governments above mentioned shall not be transferable.

#### IV.

On motion, duly made and seconded, consideration of the report of the sixth committee on labor legislation and the exploitation of mineral fuels was postponed, in order to allow time for its translation and distribution prior to its discussion.

The meeting adjourned at 5.35 p. m.

### SIXTH GENERAL SESSION, APRIL 12, 1917.—MORNING.

#### SUMMARY.

- I. Order of the day.
- II. Vote of sympathy to the Argentine Government on the death of Dr. Portela, minister to Italy.
- III. Report of the sixth committee on labor legislation.
- IV. Resolution on the establishment of permanent expositions.
- V. Resolution on uniformity of laws governing stock companies.
- VI. Resolution on a Pan American bibliographical review.
- VII. Resolution on telegraphic drafts and remittances.
- VIII. Report of the sixth committee on the exploitation of petroleum and other fuels.
- IX. Report of the first committee on a uniform gold standard, and on banking facilities, extension of credits, etc.
- X. Report of the third committee on uniform customs regulations, uniform classification of merchandise, etc.
- XI. Report of the fourth committee on the arbitration of commercial disputes.
- XII. Report of the fifth committee on postal rates, parcel-post and money-order facilities.

#### I.

Communications from the Senate, House of Representatives, and the Supreme Court of Argentina were read, expressing thanks for the tribute rendered these branches of the Government at the first general session.

The secretary-general reported that the second committee had concluded its deliberations on the thirteenth topic.

#### II.

Dr. Calogeras (Brazil) moved a vote of sympathy to the Argentine Government on the death of Dr. Epifanio Portela, minister of the Argentine Republic to Italy, who had been a member of the Argen-

tine delegation to the First Pan American Congress of Washington in 1889 and a distinguished member of other Pan American gatherings. The motion was unanimously agreed to, and on behalf of the Argentine delegation Dr. Lobos thanked the commission for its manifestation.

### III.

The commission next took up consideration of the report of the sixth committee on labor legislation. The report follows:

SIR: The sixth committee, to which was referred the topic of uniform labor legislation, begs to make its own the report of the subcommittee appointed to consider this question, and has the honor herewith to submit it with a favorable recommendation. The text of this report follows:

#### REPORT OF THE SUBCOMMITTEE ON UNIFORM LABOR LEGISLATION.

The undersigned members of the subcommittee have had under consideration the reports submitted on labor legislation, and for the reasons given therein recommend the adoption of the following conclusions:

1. *Resolved*, That the American Republics render uniform, as far as possible, their legislation regarding working hours, Sunday rest, child and female labor; accident and health insurance; hygiene of dwellings, shops, and factories; the prevention of accidents; State employment bureaus; strike arbitration; old age and invalid pensions; compulsory technical and general education of the workingman; establishment of public libraries, etc.

2. That the departments or bureaus administering labor legislation in the American Republics maintain such active and reciprocal communication as shall aid them in attaining their purposes, in carrying out those international agreements which call for local legislation, and in more effectively protecting the interests of labor and the workingman.

PEDRO COSIO.

ANDREW J. PETERS.

E. LOBOS.

E. VILLAZÓN.

JOSÉ DE LA LUZ GUERRERO.

J. S. REY BASADRE.

GABRIEL TERRA.

On behalf of the committee Dr. Cosio (Uruguay) delivered an address which is given in full.

It is indeed gratifying that the organizers of this conference should have included the subject of labor legislation in the program. The failure to include this topic would have been wholly unjustified, since the interests of labor are bound up in all matters of an economic nature taken up at these meetings.

A great change in public opinion with regard to the questions of labor and the laboring population is noticeable throughout the American nations.

The day has now come when we are about to translate the just aspirations of the workingman into concrete formulæ. In every American Republic legislation has been enacted on one or more of the points embodied in the minimum program of ideals of the laboring element.

In Argentina legislation has been enacted on such vital questions as weekly rest, workmen's compensation; in Uruguay we have an eight-hour law, legislation on the prevention of accidents; and other American Republics have enacted laws no whit less important on these or correlated matters. The results of these legislative measures on labor problems should be studied by the countries of the American continent so that they may adopt such laws as may have proved beneficial to the countries which have put them into effect. In this connection the conclusions presented by the Argentine delegate, Dr. Eleodoro Lobos, to be found in the very valuable volume of reports dealing with no less than five topics submitted by this delegate to the conference, are of primary importance.

In the resolution which I have had the honor to draft and submit to the conference, I emphasize the desirability of uniform labor legislation. This seems justified not only because of the moral advantages accruing to the workman in America but also because of the economic benefits to be derived, so soon as the differences in legislation have been made to disappear.

One of the arguments most frequently advanced against labor legislation is that of the competition of neighboring countries, especially when their exports are similar in character. The observation that the rise in price of products might be brought about by legislation reducing the proportion of each man's daily wage is having a powerful effect on most people. If the workman has a better opportunity in a neighboring country, this fact causes a decrease in price of the article produced, and hence is advantageous to competition in the international market. This material conception of the problem is responsible for the obstacles which many countries place in the way of the just demands of workmen, until the day of an international agreement which shall assure a condition of equality among all peoples shall have arrived.

Perhaps the most difficult of all these urgent questions is that referring to the hours of work. After at first resisting this principle on the ground of an altogether too free conception of the liberty of work, the right of the State is now conceded to intervene in a situation in which the contracting parties labor under conditions of such inequality that it can rarely be said that the workman enters into his agreement wholly foot-free, beset as he always is by the specter of hunger. The very men who oppose the eight-hour law—upheld by workmen the world over—do so after affirming that they are advocates of the principle that the workman should be entitled to a few hours of freedom for his home and social life in which to develop his education and comply with his civic duties. In a word, everyone readily admits that man is something more than a machine to be worked to the very limit.

The great objection, the supreme obstacle in the way of the enactment of legislation such as that of limited hours of work, is the economic reason, the specter of injury to material interests, the disturbance of the harmonious flow of capital. In my capacity as Minister of Finance and Labor of Uruguay, I have had occasion to learn a great deal. I have been able to summarize views and see clearly on many points generally obscured by the preconceived notions arising from deductive reasoning to which the Latin mind is so prone.

The dreaded economic disturbances would be offset by the strength inherent in all adaptation. This principle regulates the normal working of the factors of production in relation to consumption. The economic organism defends itself by adapting itself to existing conditions. The economic organism resists the overwhelming burden of big armies and navies by means of which some countries thought to maintain peace; it withstands the load of taxation which weighs down the industrial and commercial life; it advances in the face of defective monetary systems and of instability of values which is a constant threat of damage; it resists, as in 1914, the abrupt crippling of international credit which was the nerve of our close bonds with Europe; it withstands, in a word, the disastrous effects of the world-wide echo of the European war, the greatest upheaval the world has ever known. Why, then, if this is a reality, if this is the eloquent showing made by facts, if this is the logic of the organic life of the peoples in all that pertains to the correlation of economic phenomena, should we fear the perturbations, the unrest, the intranquillity, when it is a question of reforms tending to elevate the moral and material welfare of the workingman?

The conclusions submitted by Dr. Eleodoro Lobos will allow each American Republic to be apprised of the legislative progress being made by the others in the regulation of labor and in social welfare measures. A substantial advance has been registered in certain countries which can readily be extended to the others. From the United States to Argentina, from Chile to Uruguay, labor legislation offers striking examples which prove the prevailing trend among public men everywhere as to the need of paying closer attention to the social problems bearing on labor and the laboring element.

America should be the land of promise, the favored spot of the earth, where the problem of permanent peace shall be solved by the union of nations in a sincere and altruistic plan of cooperation, such as was outlined by the distinguished delegate from the United States, Hon. W. G. McAdoo, in his address on the 4th instant. And in order that America may be in truth the land of promise, our first thought must be to make life in these parts attractive to labor, to guarantee the workingman that he will not be enslaved in long hours, that he will not be exploited by starvation wages, that he will not be cast off by society if invalidated in the performance of his duty, that he will not be left either to starve or to beg if old age overtakes him without sufficient resources at his command, that he will find ready means to continue his education, and, in a word, that everything will be so disposed as to offer the most favorable opportunity to his just and legitimate aspirations.

It is the workman come to these lands from all over the world who has hastened every form of progress and development. He it is who creates the vast wealth represented by the yearly crops, who lays the rails over wide stretches, who builds the cities, who raises the big factories. How to attract labor has always engaged the attention of statesmen who have made it the subject of special legislation in these parts. The tendency shown in the conclusions I have had the honor to submit to this distinguished gathering corresponds most emphatically to the aims of the great American statesmen of all ages, to the ideal of rapidly increasing the population.

Various laws or projects dealing with the chief points of what may be called a practicable program exist in various American Republics. In Uruguay, ever since the reforms initiated by the great statesman, José Battle y Ordóñez, the legislative achievements have been considerable. To him belongs the credit of the eight-hour law, child-labor and female-labor legislation, old-age and health pensions, the compulsory day of rest in every six days. The administration which followed Battle's first term put into effect a workmen's compensation act, while the following bills are at present pending in the congress: A minimum wage law (Dr. Frugoni), strike arbitration act (Dr. Salgado), a social insurance law, and a project of my own on houses for workmen. A bill of Representative Martínez Thedhy on the prevention of accidents has just been enacted into law.

In Argentina there is legislation on Sunday rest, child and female labor, employment bureaus, workmen's compensation, method of applying fines (a bill on this subject has just been introduced in the Uruguayan Congress), houses for workmen, suspension of salaries, etc. In Chile legislation has been enacted on several important topics, and the labor bureau has issued publications of unquestioned merit. Lastly, several jurisdictions in the United States have most progressive labor legislation.

From this brief sketch it will readily be seen that there is enough basis for possible uniform legislation which might be extended to problems yet unsolved. I should add, Mr. Chairman, that I have not dwelt on these matters at the request of any socializing parties, if I may be permitted the expression, that are to be found in different parts of the world with specific programs and revolutionary ideas. What I have said springs from the heart, is embedded in the conscience of men of every shade of political creed and represents the supreme principle of human solidarity.

The foregoing report, which was unanimously adopted, was based chiefly on memoranda presented by Mr. Peters, of the United States delegation, and by the Argentine delegation.

After dwelling on child-labor legislation, Mr. Peters went on as follows:

The limitation of the hours of labor in the United States varies according to States and industries. From limitations in the early laws to a day of 12 hours the limitations have now been extended in our more advanced States to a limitation of 54 hours a week in private enterprises. For mechanics and laborers in the public service of the United States, and in most States, the limitation consists of a day of 8 hours.

The protection of women and their hours of labor is a matter which obviously must concern the State, for the women are the mothers of the future citizens and on their health and strength must the State rely for its perpetuity. The most progressive States of the United States now prohibit entirely the employment of women during night hours, and allow their employment during the daytime only.

There is a system called the workmen's compensation acts. The main intention of these acts is that where a workingman is injured in the course of his labor he shall receive a sum fixed arbi-

trarily by the amount of his wages or salary at the time of his injury. This sum shall be paid to him irrespective of any responsibility on his part for the accident or irrespective of the negligence of any fellow workingman, and only provided that the accident was not caused by his deliberate intention. The money so received is to be paid to him during the time of his injury and is as a rule arbitrarily fixed at one-half of his salary or wages. In the case of the workingman's death or his permanent injury the amount is determined quickly and absolutely fixed by the amount of his wages, and it is paid without any legal expense attached thereto to the workingman, or in case of his death to his legal representatives.

Not only has legislation sought to provide a more adequate method of compensating workmen for injuries, but also in every way has sought to compel the employer to use modern appliances to protect his men from injury. The community should obviously in its own interest require the manufacturers to use the most modern methods for protecting the workingman. An injured or crippled workingman is a burden on the community at large, and both for the sake of humanity and for economic reasons every reasonable precaution should be taken.

Legislation limiting the hours of labor and protecting the workingman is an important factor in the labor problem, but the immigration problem presents one of the most difficult and puzzling for a democracy to meet. It has long been the policy to welcome to our shores citizens from all the world, and in our new republics where there is great need for development it has ever been the immigrant whose strong arm held the pick and shovel that built the canal, constructed the railroads, and laid the masonry for the new buildings and bridges.

While the problem of labor is primarily a national one, yet the experience of one country may be of great interest and assistance in the consideration of that problem by another, and in every Republic the problem is one which must demand the highest thought of all of its citizens. Good government is not a thing to be achieved by legislation. It can not rest for its strength on any written code of laws, but must rely on the intelligence and patriotism and progress of its citizens.

The need of labor and social welfare legislation is set forth in an excellent memorandum by Dr. Lobos. He points out that the need is as great on the American Continent as it is in Europe. International agreements have, however, not been so common in the former. This he ascribes substantially to three causes: (1) The absence of international organization of labor; (2) the distrust with which attempts to organize have been viewed; and (3) the slow progress of all labor legislation. But these conditions are rapidly changing in the American countries, notably in Uruguay and in the Argentine Republic. General social-welfare legislation, however, in Dr. Lobos's opinion, will come rather through governmental initiative than through private organization. Every effort made in Europe by international agreements, propaganda, congresses, and treaties to define the status of foreign workmen and of labor in general has benefited and will continue to benefit labor conditions in America; and if the day has come to cooperate in this worthy mission, which has heretofore been confined to the European nations,

America should not be backward in assuming those obligations. "We must accept the responsibility with the same spirit with which we deal with influx of capital." This principle has already been recognized by certain of the American Republics, chiefly the United States; the next step is to secure uniformity in the legislation enacted.

In addition to valuable statistics relating to domestic and foreign labor in the Argentine, the Lobos memorandum enumerates the various labor laws at present in force in the Argentine Republic. They are as follows:

Sunday rest, law No. 4661, enacted August 31, 1915.

Child and female labor, law No. 5291, of October 14, 1907.

Organic Law of the Department of Labor, law No. 8999, of October 8, 1912.

Employment bureaus, law No. 9184 of September 25, 1913.

Workmen's compensation laws. The first law on this subject, No. 9085, of June 18, 1913, covered only accidents to Federal employees. Later a general compensation law was enacted under date of October 11, 1915.

Collection of fines. This law, of August 28, 1915, regulates the procedure to be followed in the judicial collection of fines imposed for the infraction of labor regulations.

Workmen's homes, law No. 9667 of October 15, 1915.

Law on the attachment of salaries and wages, law No. 9511 of September 25, 1914.

Law on railroad employee's pensions, law No. 9653 of June 21, 1914.

Law on postal savings, law No. 9527, of October 6, 1914.

This list does not include provincial legislation.

#### IV.

The Uruguayan delegate, Señor A. Metz Green, submitted a resolution, seconded by the United States delegation, on the advisability of establishing permanent expositions of American products. The resolution as drafted read as follows:

*Resolved*, That the International High Commission, in general session assembled at Buenos Aires, earnestly recommends the establishment of permanent expositions of the products of the United States in the leading cities of the South and Central American Republics, and of the products of the latter in those of the United States, under the patronage of the respective Governments.

The resolution was unanimously approved.

#### V.

Unanimous consent was asked for the consideration of a resolution on a conference concerning admiralty law submitted by Dr. Jiménez de Aréchaga, on the basis of the rules adopted at the Montevideo Congress of 1889 on private international law. As not all the countries represented at the meeting of the International High Commission had participated in that congress, the chair ruled that a duty of courtesy forbade its consideration without reference to committee. The proposal was accordingly referred to the seventh committee.

The Uruguayan delegation also submitted the following proposition for future study, which was unanimously agreed upon:

*Resolved*, That the laws of the American Republics on the formation, operation, and obligations of stock companies be made uniform.

## VI.

Dr. Subercaseaux requested unanimous consent for the consideration of a resolution on a bibliographical review. As unanimously approved this resolution read:

*Resolved*, That in view of the difficulty at present encountered in obtaining works published in certain Republics of America, the International High Commission deems it advisable that a Pan American bibliographical review be published in which shall be listed the title, the date and place of publication, the publisher's name, and the price of each volume.

## VII.

Dr. Morató on behalf of the Uruguayan delegation here presented a resolution on telegraphic drafts and remittances. In support of his proposal, Dr. Morató dwelt on the care with which the Uruguayan delegation had studied the subject, which is one requiring complete and thorough examination. Feeling that the subject was not embraced in the program of the commission as formally agreed upon, the delegation ventured to submit it for future consideration. This method of payment and transmission of funds, he explained, had acquired renewed importance with the outbreak of the European war, and it was not too much to say that every country was giving preference to this method of payment; 75 per cent of Uruguay's exchange operations has been carried on by telegraphic draft and remittance. While legislation on commercial documents had grown in direct proportion to the facility of communication, still telegraphic operations seemed to be unknown to our business law and the rights and obligations involved were not determined. The telegraphic order bears a certain similarity to a verbal order. It was felt that under certain circumstances it would be a difficult task to define the various liabilities arising from a telegraphic draft, payment on which had been delayed; on this point there had been much litigation.

In seconding the proposal, Dr. Melo of the Argentine delegation stated that as conditions now exist in transactions between countries having laws on the subject and countries without such legislation, there would seem to be a wide divergence of theory and practice, while in Germany and France there is no agreement as to whether the consequences of the error should be borne by the person choosing telegraphic communication, or the ordinary principles of liability should govern the case; in Italy and in Argentina, on the other hand, the question has been settled. These differences demonstrated the need of thorough discussion at an international congress.

After an explanation by the chair as to the method of disposing of new topics for the consideration of future gatherings, this resolution was approved by unanimous vote, in the following form:

*Resolved*, That one of the topics to be included in the program of the next meeting of the International High Commission be the study of legislation relating to telegraphic drafts and remittances.



## VIII.

The report of the sixth committee on the exploitation of natural resources was read and unanimously passed as follows:

SIR: The sixth committee, to which was referred the topic of exploitation of petroleum and other fuels, begs to make its own the report of the subcommittee appointed to consider the question. This report follows:

REPORT OF THE SUBCOMMITTEE ON EXPLOITATION OF PETROLEUM AND  
OTHER FUELS.

The subcommittee to which was referred the ninth topic of the program of the International High Commission has considered the reports submitted by the delegations of Peru, Bolivia, and Argentina, and recommends the adoption of the following conclusions:

1. *Resolved*, That the Governments be urged to ratify the convention of the Fourth International Conference of American States relative to the section of commerce, customs, and statistics of the Pan American Union; and to include in the report mentioned in article 11 of said convention the legislation governing mineral fuels and its possible unification. This report shall deal with the procedure and nomenclature which should govern in each American Republic the technical analysis and classification of its mineral products.

2. That the report of the section of commerce, customs, and statistics of the Pan American Union mentioned in the foregoing paragraph be published and circulated as well as those reports prepared in the several countries regarding the exploitation of mineral fuels. These reports ought to summarize the economic advantages of developing this mineral wealth, and should contain the record of the authentication by the respective Governments of the statement made in them, so as to stimulate the confidence of capital and labor in the immediate and extensive development of this industry.

ANDREW J. PETERS.

E. LOBOS.

E. VILLAZÓN.

JOSÉ DE LA LUZ GUERRERO.

J. S. REY BASADRE.

GABRIEL TERRA.

The report was largely based on a memorandum submitted by Dr. Lobos of Argentina.

The fuel situation of the world is first analyzed. The consumption, as given by the very best authorities, does not exceed 1,000 tons a year, while the production for the same period is placed at 3,000 tons. What explanation then can be advanced for the shortage of coal and petroleum? Why should high prices continue to stop production, paralyze industries, and upset the whole course of commercial and economic relations?

The transportation problem is directly involved in that of an adequate fuel supply. The present coal situation shows a shortage both in the United States and in England. The situation in this latter country became so acute in 1915 that coal was quoted in Buenos Aires at 30 pesos gold per ton as against 9 pesos gold formerly, with the prospect that it would soon be unobtainable at almost any price.

Under these circumstances the American nations which are not endowed with coal fields would turn their attention to other fuels. Of these, petroleum occupies a favored position, and the Argentine Republic has discovered valuable oil deposits in at least four different districts.

In the second paragraph the memorandum sketches a project of governmental exploitation which is being tried in one of the districts, namely, that of Comodoro Rivadavia. The scheme is not intended to be a permanent system, but merely a means of regulating private exploitation. This is being done in accordance with law No. 7059, December 24, 1910, which authorizes the executive to reserve an area of 5,000 hectares<sup>1</sup> in the oil zone of Comodoro Rivadavia, within which no mining claims would be granted nor survey permissions allowed during a term of five years. The executive is further authorized to subdivide this zone into lots of 625 hectares each, and to call for bids for their exploitation; these bids may be awarded to one or more concessionaires. The executive may likewise contract for the development of one or more of these lots and use the output for the Navy or national railway lines. To carry into effect the provisions of this law, a commission was appointed, empowered to survey the lots and to draft legislative projects adequate to insure their successful exploitation.

Twenty-one thousand cubic meters of petroleum were extracted in the first year, while the production in 1915 reached 88,500 cubic meters. This petroleum has met every scientific analytical test.

In the matter of capital for the development of these fields the Government is ready to subscribe 51 per cent of the capital stock of any corporation organized for such a purpose. In this way it is hoped that private initiative and governmental aid can join in developing this abundant natural wealth.

Closely allied to this problem of the development of petroleum lies another series of questions whose satisfactory solution can not be undertaken by private initiative because of the highly technical aspect or the international character. Among these is uniformity in scientific investigation and analysis. When the large number of technical aspects is considered—oil surface, safety devices, storage, shipment facilities—it is not surprising that at the last international congress of Bucharest consideration was given to the establishment of an international institute to study all these matters and to act as a clearing house for all data on petroleum and other fuels. Bucharest was selected as being centrally located for the important oil fields of Roumania, Galicia, and southern Russia. No elaborate argument is needed to show the need for an American national agreement along similar lines. The most superficial study of import and export fuel statistics will show the diversity of terms employed, especially in the case of by-products. The memorandum gives several tables showing these differences of terminology.

This careful analysis closes with a recommendation which forms the basis for the committee report on the subject.

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<sup>1</sup> 1 hectare = 2.47 acres.

## IX.

The first committee submitted its report as follows:

SIR: The first committee, to which were referred topics 1 and 11 of the program of the International High Commission, has unanimously approved and adopted the reports filed by the first and second subcommittees, which have respectively studied the establishment of a gold monetary standard and the stabilization of international exchange and banking facilities, the extension of credits, and the financing of public and private enterprises. The text of these reports is as follows:

A. REPORT OF THE SUBCOMMITTEE ON THE ESTABLISHMENT OF A GOLD MONETARY STANDARD AND THE STABILIZATION OF INTERNATIONAL EXCHANGE.

The subcommittee appointed to report on the establishment of a gold monetary standard and the stabilization of international exchange has had under consideration the reports submitted by the delegations of the United States of America, Argentina, Brazil, Bolivia, Chile, Costa Rica, Ecuador, Salvador, Uruguay, and Venezuela. As a result of its study the subcommittee is of opinion that the establishment of an actual gold currency for the American Continent is, in view of the present monetary situation of the American nations, an ideal impossible of realization. It is further of opinion that this step should be preceded by the solution of the national monetary problems of all those countries that are passing through the transitory stages of a paper or depreciated currency. Only thus will monetary stability be attained, and consequently, stability in foreign exchange be insured.

It therefore begs to submit to the International High Commission the following conclusions:

The International High Commission believes that, in view of the present monetary situation of the American Republics, the establishment of a real uniform gold currency for these nations is an ideal impossible of realization. The only measure feasible at the present time is the adoption of a money of account. Your subcommittee recommends that the unit of this money of account should contain 0.33437 gramme in weight, be .900 fine, its multiples and submultiples be based on the decimal system, and its ratio with the existing monetary units be established by common agreement.

And, finally, it desires to express the hope that the States which are at present in an abnormal situation or in a process of transition will adopt the gold standard based on the decimal system. It further hopes that each nation will take such measures as may be required to standardize its own monetary system and stabilize its foreign exchange.

BUENOS AIRES, April 7, 1916.  
(Signed)

NORBERTO PIÑERO.  
ELIODORO VILLAZÓN.  
GUILLERMO SUBERCASEAUX.

**B. REPORT OF THE SUBCOMMITTEE ON BANKING FACILITIES, EXTENSION OF CREDITS, AND THE FINANCING OF PUBLIC AND PRIVATE ENTERPRISES.**

The subcommittee to which was referred the subject of banking facilities, extension of credits, and the financing of public and private enterprises, has had under consideration the reports submitted by the delegates of the United States of America and of Argentina. In view thereof and for the reasons hereinafter mentioned it recommends the adoption of the conclusions set forth at the end of this report.

Your subcommittee is of the opinion that for the purpose of obtaining the greatest extension of credit among the States of America the leading banking institutions of each country that do not at present operate directly or indirectly in the other countries should take steps to do so.

To this end, the American Governments—and especially those of the nations which by virtue of their wealth and abundant resources, as in the case of the United States and other American nations, are in a position to offer capital and credit to the others—should eliminate all obstacles whether legal or otherwise which might prevent their banks from extending their activities abroad. That is to say, they should either establish agencies or branches or take an interest in banking institutions in other countries. The same may be said regarding States of lesser economic potentiality whose banking institutions have cause to establish agencies or branches in the richer countries. This should be done on terms of reciprocity.

It is furthermore of primary importance that the banking institutions of the different nations initiate and cultivate relations; that they furnish one another with all facts and data necessary for their greater and more efficient development, by means of the extension of credit to, and the financing of, the trade and industries of other countries.

The conclusions submitted by your subcommittee are in consonance with the purposes above set forth; furthermore the language used is sufficiently broad and comprehensive to include all such matters as tend to the extension of credit and to the activities of banking institutions in each of the American Republics or in any other country.

The increased commercial relations that will result from the measures recommended will be beneficial to the peoples of America and will draw them closer to one another without in the slightest degree modifying interests of longer standing or without affecting the fruitful and substantial business connections and credit relations existing between the nations of America and those of Europe.

In addition to the foregoing your subcommittee has had under consideration the suggestion as to the advisability of the official banks or such as are administered under governmental auspices entering into agreement whereby operations in gold exchange may be facilitated among the several countries. In view of the broad scope of the conclusions recommended, which are drafted in general terms, your subcommittee confines itself to recommending the study of such an agreement to the governments and the banks.

Your subcommittee accordingly requests that the following resolutions be submitted to the International High Commission:

*Resolved*, That the International High Commission recommend to the American Governments the adoption of such measures as will place the banks of each country in a position to extend their activities abroad, to establish branches on terms of reciprocity, and to facilitate the granting of credit to the trade and industries of other countries of the continent.

*Resolved further*, That the International High Commission recommend to the institutions of credit of each country the adoption of such measures as are indispensable for the establishment of relations with similar institutions in other American States, subject to their laws and on terms of reciprocity.

BUENOS AIRES, April 8, 1916.

(Signed)

PAUL M. WARBURG.

SAMUEL HALE PEARSON.

NORBERTO PIÑERO.

CUSTODIO DE ALMEIDA MAGALHAES.

The report as read was unanimously adopted.

On the subject of the establishment of the gold standard, the memorandum submitted on behalf of the Argentine delegation by Dr. Norberto Piñero reviews the subject both as to the results already achieved and as to the feasibility of wider cooperation. Of the European conventions including the monetary agreement of the Germanic Federation, the Austro-German Union, and the Scandinavian Union, the most important, unquestionably, has been the Latin Union.

The topic has appeared on Pan American programs ever since the first meeting in Washington, in 1889-1890, where, owing to the prominence of silver as a medium of exchange at that time, the problem received this form: "The adoption by each of the participating Governments of a silver coin to be the legal tender in all commercial transactions between citizens of all States of America." Little has, however, been achieved after a lapse of almost thirty years. As the entire economic and monetary situation of each country has to be considered, a glance will show how grave and complex must be any attempt at uniformity. The gold dollar of the United States, 0.900 fine, has been adopted by Cuba, Nicaragua, the Dominican Republic, and Panama. Costa Rica has a unit known as the Colon, 0.900 fine and 778 milligrams in weight. Bolivia and Chile use coins 0.916 fine, while the circulation in Colombia is almost entirely paper. Peru bases its system on the English pound. These examples sufficiently show the complete diversity in the essential matters of weight and fineness. Any attempt, therefore, to establish a *real* common unit would meet with insuperable difficulties. In view of this it is proposed to use a money of account useful chiefly for comparison with the existing monetary units of the several countries. The next question which arises is the unit which shall serve as a basis for this money of account. Dr. Piñero unhesitatingly advocates the franc of the Latin Union, on the ground that "it is based on the decimal metric system, is known beyond the limits of the countries where it is legal tender, and lastly, its use for calculation and accounting is simple."

The Bolivian memorandum begins with a historical sketch of the early days of the Spanish domination, showing how the mints of

Potosí, Santa Fé, and Mexico coined units of the same weight and fineness as those of the Iberian Peninsula. So great, indeed, was the power of the Spanish peso at that time that it was adopted by England as the circulating medium in its American colonies. With the emancipation from Spanish rule, this situation changed in each Republic; the standard of fineness was soon lessened. It is to be regretted that at the moment when these countries were changing from silver monometallism to a gold basis no serious effort was made toward securing uniformity. To-day finds all the American nations at least on a nominal gold basis. The United States after a period of temporary bimetallism has adopted the gold dollar as its unit. The Argentine Republic has also a gold dollar 0.900 fine and 1½ grams in weight. A not inconsiderable number of the South American nations chose the English pound as their standard—Peru, Ecuador, Uruguay, and Bolivia. With slight differences Colombia and Chile did the same. The explanation for this is possibly to be found in the closer economic ties with Europe, and principally Great Britain. On the other hand, those countries whose bonds of trade bring them into more intimate touch with the United States, such as Cuba, Panama, and Nicaragua, have accepted the United States standard. Turning to the choice of units, we find the countries divided into groups, those which we might call the dollar countries and those which we might term the pound countries. The choice of either would unquestionably throw a heavy burden on the shoulders of the other: an inequitable procedure fraught with subsequent difficulties. The memorandum closes with the following suggestions:

(1) The establishment of a Pan American monetary union, based on a gold standard.

(2) The adoption of a gold coin containing 1 gram of pure gold, with an alloy of one-tenth gram to serve as a money of account.

(3) Each American nation would reserve the right to continue in force its present monetary system; it would only be called upon to enact as an immediate step a law giving the money accepted by the Pan American monetary union the legal equivalents with its own currency.

(4) The coinage of these moneys might be intrusted to the Federal Government of the United States until such time as the mints of other American nations were in a position to assume their corresponding obligations.

(5) All details as to weight, fineness, etc., to be governed by the monetary law of the United States.

Lastly, the suggestion was made that the name of this money of account be "potosí," in commemoration of the first mint established on American soil.

In tracing the development of gold and the monetary history of Brazil the following suggestions were made for securing uniformity:

(1) The adoption of the metric system of weights and measures by all the countries of this continent; (2) the determination as the basis of fineness the standardization of the metal to serve as the unit; (3) the acceptance of the standard of 900/1000 fine for gold and silver coins; (4) the inscription on each piece of its monetary value and weight of pure metal.

Dr. Llamas of the Uruguayan delegation likewise presented a valuable report. As in the other cases, his historical sketch brings

the subject down to the First Pan American Financial Congress in Washington in 1915. In the matter of the selection of an International Union he points out that any action taken must respect the sovereign right of each nation to determine this matter in the light of its best interests. Since the abandonment of bimetallism by the United States and Mexico "gold has become the only standard of the civilized world, and even such countries as are on a paper or silver basis adjust their international transactions to a gold basis." Dr. Llamas then advocates the adoption of a money of account of equal weight and fineness as the franc of the Latin Union, to be used in all governmental statistics and recommends that chambers of commerce likewise adopt a table of equivalents. In selecting the franc as the unit, it is pointed out that the postal union at Berne effects all its international liquidations on this basis, even with such countries as do not form a part of the union.

The Colombian memorandum shows that Colombia's monetary unit is the gold dollar worth exactly one-fifth of a pound. Since the establishment of the conversion fund the old paper money has entirely disappeared.

Ecuador adopted the gold standard by its law of November 4, 1898, which established the sucre of 0.8136 grams of gold in weight and 0.900 fine.

The Salvadorean memorandum, while indorsing the principle of a uniform gold standard, holds that the present moment is inopportune for such an attempt.

The Venezuelan memorandum pointed out that the gold standard has always existed in Venezuela. A constitutional provision forbids the issue of paper money and the declaration as legal tender of any currency paper. Silver or nickel can only be coined by legislative authority. This same body fixes the value, fineness, etc., of the international currency and determines the admission and circulation of foreign moneys. The period at which the greatest amount of gold circulated was from 1870 to 1892. This was due to the rising price of coffee and to the influx of European capital for railroad promotion.

The following measures were recommended to strengthen the circulation of gold in Venezuela: (a) Increase in exports. (b) Slow withdrawal of a part of the silver currency now in circulation.

The memorandum recommends:

1. The adoption of the metric system by the Republics of America for all mercantile operations.

2. The adoption of the standard unit of the value of the gold bolivar, 0.2903 fine, or of the value of the 5 bolivar piece, weighing 1.4516 grams fine gold.

The United States delegation submitted the following memorandum on the possibility of establishing an international gold clearance fund. On the basis of this memorandum and the ensuing discussion the Central Executive Council has prepared and submitted a draft treaty, which is appended, page 178.

The thought of an international gold clearance fund was probably suggested by two considerations. The European conflagration had brought about conditions on the ocean where either through scarcity of available transportation facilities, or through the temporary lack of safety owing to belligerent operations, the shipping

of gold between American countries and between our hemisphere and Europe had become extremely hazardous if not impossible. It is natural that the necessity suggested itself to find ways and means of placing beyond the reach of such disturbances the settlement of gold balances between nations. The Federal Reserve Board has evolved during the preceding year a system of effecting a settlement of debts among the 12 Federal reserve banks of the United States by means of a gold settlement fund, and the United States members attempted to evolve a plan by which, in a similar manner, gold settlements could take place between nations without the necessity of moving gold from one country to another, substituting therefor a safe procedure of legal transfer of ownership.

In itself this problem would not offer any great difficulty. It would mean, as a matter of fact, no more than one bank ear-marking gold for another; that is to say, one bank holding gold for the credit and at the disposal of another bank upon the distinct agreement that the creditor bank may ask for the amount due it in actual gold and not in any other currency or credit. The difficulty of the problem, however, lies in the fact that if this gold fund is to be large enough substantially to avoid the shipment of gold it would have to embrace sums of very large proportions, and inasmuch as these deposits of gold will probably have to be made for account of governments or government banks, which will have to treat this gold held in foreign countries as part of their own gold reserve, against which they have outstanding their own circulation, it is necessary that the title to and the ownership of the gold in foreign countries be placed beyond any possibility of dispute or of seizure. It had of necessity to be considered that, in case of interruption of friendly relations between any two nations, the gold belonging to one could not be seized by another, and it was, therefore, felt that the prerequisite of the creation of such a gold fund would have to be international agreements, not only by two, but by several governments which, all together, would constitute themselves the trustees of the fund. Thus, in case of hostilities between two, the remaining trustees would still act as trustees, whose rights and privileges could not be affected by an interruption of friendly relations between two of the contracting parties.

Not only in the case of abnormal interruptions of ocean transportation, but also in the case of normal conditions might this clearance fund prove to be a very useful instrument. It is no doubt a great waste to pay the freight and insurance on gold, which at one period travels one way and which, with the return flow of trade, will have to travel back over the same route that it has come. It is no doubt a great waste that foreign gold that enters foreign countries in this manner must in a great many cases be melted down and recoinced. Moreover, the loss of interest caused by gold in transit is a very heavy item. This economic waste might be avoided by the creation of the proposed gold clearance fund.

To illustrate, if exchanges between Buenos Aires and the United States were such that gold would have to be shipped to New York, the Banco de la Nación in Buenos Aires might agree with the Federal Reserve Bank of New York that instead of shipping, say, \$5,000,000, this amount in gold will be deposited with the Banco de la Nación in the international clearance fund. The Federal Reserve



Bank of New York would place instead at the disposal of the Banco de la Nación \$5,000,000 gold in New York, against which the Banco de la Nación in Buenos Aires might sell exchange on New York. The gold in Buenos Aires would be kept under the joint custody of the Banco de la Nación and such additional trustees acting for the international clearance fund as might be designated with the approval of the Federal Reserve Bank of New York. The Federal Reserve Bank of New York would have the right at any time to stipulate that the gold be shipped, and therefore the Banco de la Nación, in selling exchange on New York, would have to provide for a margin sufficient to provide the shipping cost, the insurance, remelting, and other incidental expenses in case the actual shipment should become necessary. Should the gold, however, remain at Buenos Aires until the tide would turn so that the transaction would be reversed—that is, the \$5,000,000 would be paid back in New York to the Federal reserve bank, and in turn the New York bank would release the gold at Buenos Aires—then the shipping expenses, etc., would have been saved and become the profit of the respective banks. How these profits are to be apportioned between the two banks in question would be a matter of individual negotiation between such banks.

If there were the same gold coins in Buenos Aires and New York, the transaction would be a very simple one. In that case ultimately Argentine gold would either go back into circulation or, if shipped to New York, it could be used to pay off the indebtedness at New York, and, vice versa, United States gold arriving at Buenos Aires would be acceptable to satisfy American indebtedness incurred there. In that case, however, care would have to be taken that gold deposited in each instance would be full weight, that is to say, not show more than the normal degree of abrasion. The matter is more complicated when foreign gold of different fineness and denominations is deposited, in which case the transaction must be based upon the weight and fineness of the gold, and sufficient consideration must be given to the expense of recoinage should the gold eventually have to be shipped to the other country.

These, however, are questions of banking technique, into which it is not necessary to go further in this memorandum. It is clear, however, that the freest use of an international gold clearance fund of this kind could be made if there were gold coins interchangeable between the various countries.

This led to the consideration of the desirability of establishing interchangeable gold coins between American nations. The adoption of a uniform money of account based upon a gold coin 0.900 fine and weighing 0.33437 gramme, which we might term the American franc, would be a most helpful step in this direction. Gold currency actually coined on this basis, or representing multiples thereof, could be used freely for an international gold clearance fund. The unit being the exact one-fifth of a United States gold dollar, the \$5 gold piece would go into the fund or into circulation as a 25-franc piece, while the 20-franc piece of this future American coin would be equivalent to a \$4 gold piece in the United States.

As years go by it is to be hoped and to be expected that some of the Republics of the American hemisphere will begin to adopt this new standard, which, as has been explained, will form a very helpful factor in developing trade relations and effecting easy settlements between the respective countries.

While the gold clearance fund will attain its highest efficiency between countries having the same or interchangeable gold coins, it can, nevertheless, be used to advantage between other countries having a well-established gold standard. There is no reason whatsoever why similar treaties should not be exchanged between the United States and European countries, and it is hoped and urged that negotiations to this effect be taken up in the near future.

The only special memorandum submitted on the topic of the extension of banking and credit facilities was prepared by Dr. Manuel M. de Iriondo and Sr. Samuel Hale Pearson, both distinguished financiers of Argentina. They recognize that the question does not lend itself to uniformity and that it furthermore is a matter of negotiations between the banking institutions of the several countries.

They emphasize, however, the need of closer ties and suggest that fifteen or twenty of the leading banking organizations of the United States should enter into reciprocal agreements with one or more of the financial institutions of Buenos Aires whereby they would become practically agents (or in some cases partners), the one of the other. With this basis established the acceptance of 90 or 180 day drafts would be greatly facilitated.

The Colombian delegate submitted interesting and valuable data on capital already invested in Colombia and of the exceptional opportunities afforded to a still greater influx. The public debt is given as less than \$4 per capita, while an interesting table gives minute information as to capital investment opportunities which are conservatively estimated at two and one-half billion dollars.

The Haitian memorandum likewise points out the advantages of the investment of new capital in Haiti. For this purpose it suggests the creation in some centrally located American nation and in direct touch with the other republics of a central bureau for the diffusion of authentic information as to opportunities for investment.

The general question of the public and private finances of the American Republics was treated in detail by the Hon. Paul M. Warburg. The chief features of this address follow:

At the conclusion of the address which I had the honor of delivering before the First Pan American Financial Conference on May 25, I summed up the financial problems of the American nations in the following words:

The development of all American nations lies in the same direction, though there will be a difference in degree. It must be the aim of the United States from now on, to move rapidly toward entire financial independence. It must be the aim of her sister Republics so to divide the credits needed for their further development that the temporary breakdown of one creditor country will not seriously embarrass them. They will enjoy the greatest degree of safety in this respect if their creditor nations are geographically, politically, and economically separated from one another as far as possible. So that in case one should become involved, the other may be expected to remain unaffected thereby. Though in normal times closely connected with Europe, the American continents ought to be so organized as to form a distinct and independent unit in times of emergency—a union whose transportation and credit systems will remain unbroken, even though all Europe should go to war.

An American union of this kind will prove of the greatest economic advantage for all nations concerned. If such a union be thought desirable, it must, however, be forged and riveted every day of the year. If it is to stand the test of time and stress, it must be a structure of gradual growth, carefully planned and consistently developed, and built upon a safe foundation.

The first part of the program here mapped out was the financial emancipation of the United States. Our own financial independence had to be accomplished before we in turn could expect to become a permanent factor in relieving the dependence of other nations. This development has taken place in an incredibly short time. Our new Federal reserve banks having provided a solid foundation for our entire banking structure, we have not only paid our debts in Europe, bought back our own securities to an amount which staggers the imagination (estimated at \$1,000,000,000), but also have made loans to foreign countries aggregating over a billion dollars. (Of these, Canada received \$150,000,000 and Europe \$785,000,000, and South and Central America received about \$76,000,000.) We have, in addition, imported more than \$500,000,000 in gold. Our excess of exports over imports since the beginning of the war amounted in January, 1916, to over two and one-half billion dollars, and to that extent the international financial position of the United States, as an economic unit has been consolidated during that period.

Since December 31, 1914, the deposits of the national banks alone have grown by \$1,000,000,000, and the excess reserves in February, 1916, amounted to eight hundred and eighty-two millions. The latter figure indicates the tremendous reserve loaning power of the banks, which does not include that of the Federal reserve banks nor the State banks and trust companies.

I have taken the liberty of presenting these figures, not from a spirit of boastfulness; indeed, it is with a feeling of deep sorrow and sympathy that we consider the causes underlying this phenomenal development. But it is necessary for us at this juncture to consider facts. Like physicians, we must diagnose and treat our cases upon the basis of the patient's condition as it actually exists, and not as we should wish it to be. These facts, then, we must bear in mind:

The world's saving and reserve power has been heavily encroached upon; for many years after the war Europe will not be able to send money for permanent investment into foreign countries to the same degree as in the past; the United States have so strengthened their economic position among the nations of the world that to a substantial extent they must take the place of the European nations that acted as world bankers before the war; and, finally, the longer this deplorable struggle lasts, the larger will become the share ultimately to be borne by the United States.

The first step of the program of the United States has been carried out with a rapidity and to a degree far exceeding our expectations of a year ago. We may, then, ask ourselves why is it that, in the face of this tremendous increase in strength of the United States, there has not been a more aggressive policy on the part of that country in carrying out the second part of the program; that is, in actually securing a substantial portion of the banking business of the central and southern countries of the Western Hemisphere, and in developing our mutual trade relations covering both the imports and exports of these nations.

We might say in reply that all solid progress in business must be gradual, and that work done in the foundation of a building is the most difficult and most important part of the task, but one that is least discernible to the casual observer. What important steps, however, have already been taken we shall state a little later, and shall first enumerate the causes that up till now have worked for delay.

It is evident to us all that as long as there is uncertainty as to the outcome of the European struggle, as long as it is impossible to judge how far the final destruction of property and credit will go, bankers in the United States will have to proceed with care and keep themselves supplied with ample resources so as to be prepared for any conditions that may arise. This attitude of conservatism is strengthened by the consciousness of the fact that large sums of North American securities are still in the hands of European investors and will still have to be absorbed by the United States. We may even expect that it may become advisable for Europe to sell us a substantial portion of their South and Central American securities. Our bankers are still puzzled whether they will have to enter the field of financing the large corporations of Central and South America by a process of substitution or by way of new transactions. Furthermore Europe has been showering upon the United States orders for raw products at very high prices, and for finished merchandise in such quantities and upon such terms that our manufacturers and bankers have been captivated by this highly profitable business. This, however, has prevented them from going out into the world trying to conquer new markets that would become of permanent value even though for the time being they offered less profit and required greater effort.

Considering the future of our country the historian or economist might possibly say that it may prove a mistake for our nation to have concentrated its efforts at this time upon the execution and financing of ephemeral business, bound to stop after the war, instead of employing this period for the purpose of laying the foundation to business relations of a more permanent nature. But a nation's business, commercial and financial, is a composite of thousands of individual transactions beyond the control of a Government or a people, and it is after all the rule of demand and supply that governs supreme in economic questions. The fact remains that this extraordinary demand upon such extraordinary terms has created a scarcity of certain raw products and of labor, and at the same time an increase in the price of both. The manufacturer has thus been kept occupied, indeed, but too preoccupied to find the time, men, and material necessary for securing new markets. The banker, on the other hand, in the face of a political situation that from time to time has been seriously clouded, uncertain of the requirements that the future may have in store for him, has been fully justified in proceeding with due care.

In spite of all this greater headway would have been made if there had been in the United States a better knowledge of the requirements and conditions of the countries of South and Central America and if the law had permitted our banks to take an interest in the capital of banks operating in foreign countries. Before our section of the commission sailed, the Federal Reserve Board recommended to the Congress an amendment to the Federal reserve act designed to enable the banks of the United States to enter this field substantially on the same basis as their European competitors. This amendment has been warmly indorsed by the American Bankers' Association, several important members of which have assured us that they are impatiently awaiting its passage in order to embark upon this new field of banking. The Federal Reserve Board hopes, in the very

near future, to receive news of the enactment into law of this amendment.

But, in spite of the handicap under which we were thus proceeding, we have made very substantial headway. Two banks—the National City Bank of New York and the Mercantile Bank of the Americas—have entered the field by opening branches in Central and South America, a large corporation has been established designed to go into foreign fields, and finally, but most important of all, the American acceptance business has been launched and is now well under-way. Banks and bankers in the United States have acceptances outstanding estimated to aggregate between one hundred and one hundred and fifty million dollars. That is a very substantial beginning, but only a beginning. Our bankers are only too anxious to increase these acceptances to a sum vastly in excess of that amount, and the Federal reserve banks will continue to lend their vast resources in order to secure a wide and favorable market for these acceptances. At the present discount rate for dollar acceptances of 2 per cent as against the English rate of 5 per cent and with the high rate of exchange commanded by the dollar, these acceptances ought to be increased by leaps and bounds and used to finance not only the trade of Pan American nations with the United States, but also a portion of their trade with Europe. It would appear, however, that the local banks of South and Central America ought to give their more active cooperation and support in order to bring about a more rapid development which would benefit their customers individually and their countries as a whole.

There is, of course, the one great obstacle in the way of the free use of our banking facilities, and that is the lack of quick and regular communication between South and North America. Banking is largely a question of interest charges and against the advantages of our low discount rates there is the disadvantage of the delay in getting American bills accepted and the proceeds made available. Every additional day needlessly consumed by the goods on their way toward distribution means either an unnecessary addition to the cost of the consumer or a loss to the producer. Quick and regular means of communication are the indispensable prerequisites for the successful development of North American banking in South and Central America.

But without going into a detailed discussion of all the phases involved in these interesting questions, I shall confine myself to emphasizing only these three points:

- (1) With the Panama Canal in operation a letter between Valparaiso and New York should reach its destination in less than 11 or 12 days; two more days will be necessary to connect Buenos Aires and New York, and there is no difficulty in finding a prompt and regular route from Buenos Aires to Rio de Janeiro. It can only be a question of a very short time then, and—in one way or the other—we must succeed in solving this all-important question of a swift and regular ocean transportation. Forces that now work as obstacles will then be turned into influences favoring banking and business relations between American nations.

- (2) Our merchants and manufacturers realize that after the end of the war Europe will have to make gigantic efforts to regain her lost ground, and that the United States must be prepared to feel this

competition, even within her own borders. It is, therefore, necessary for the United States to look for new markets for her products, and this naturally will lead our business men to increase their efforts in gaining a strong foothold in Central and South American countries. Some of our large interests have already become important factors in this direction, and it will be primarily the engineering genius of our people which will play an important part in developing the latent resources of all these lands; but, if the growth is to be solid, it must be gradual, as was Europe's progress. After all, not a few large transactions, but the thousands of individual ones, form the best basis for the permanent establishment of extensive business relations between nations.

(3) The financial condition of the United States after the war will be such as to make it an absolute necessity for us to take a very important share in financing the world. There is no intention on our part to endeavor to crowd out the European nations that have been the friends of the South and Central American countries and have been substantial in developing them, as indeed they have been substantial in developing our own country. But the figures that I had the honor of presenting to you in the first part of my remarks tell conclusively their own incontrovertible story.

It is not any more a question of hopes and wishes, but a question of mathematical certainties. And it does not now, as it did a year ago, take any degree of bold prophecy to foretell what the outcome must be. The United States now is, and from now on will be, one of the world bankers. I believe I am voicing the unanimous wish of all American nations if I say that we fervently hope for an early cessation of hostilities; the sooner they cease, the better for us all. For the longer the war, the greater the destruction of the world's saving power and the greater the resulting retardation of the entire world's economic progress.

We do not wish Europe's financial power to be crippled and ours to grow at their expense. The world is too large to be financed by any single nation. For the American nations safety and independence lies in dividing their risks both as creditors and debtors. In any emergency that will assure them the best protection. It is to this goal that we are moving with consistency and determination.

The main service rendered by the so-called "exchange professors" is not so much in what these men teach while they are in foreign lands, but in what they learn themselves and, upon their return home, teach their own people. We, members of the United States section, have come to learn, not to teach, and shall be happy by personal intercourse with your bankers and merchants to learn how our people at home may best aid further development on lines desired by us all. Mr. Kains, governor of the Federal Reserve Bank of San Francisco, and myself, being the members of our section especially charged with the duty of studying the banking questions to be dealt with by this conference, shall devote our particular attention to the gathering of such information as your bankers and merchants may impart to us.

## X.

The report of the third committee was then read.

SIR: We have the honor to address Your Excellency for the purpose of reporting to you and to the International High Commission that after studying the topics assigned to it this third committee has come to the following conclusions:

(A) UNIFORM CLASSIFICATION OF MERCHANDISE.

This heading covers two aspects of the question: Statistical classification and customs classification. In addition, the committee took into consideration two proposals submitted by Dr. Vázquez, Uruguayan delegate, because of the close relation borne by them to the topic of uniform classification of merchandise. These proposals deal with the publication of a commercial nomenclature and compendium of American tariffs, and with the general policy to be adopted in American tariffs.

As regards uniform classification of merchandise for statistical purposes the committee urges the advisability of adopting, with certain modifications, the Brussels Convention, to which almost all of the American Republics have adhered, and which is moreover based on scientific reasoning.

Your committee has likewise deemed it proper to specify the type of currency, the period of time, and the meaning to be given to the expression "country of origin." This has been considered indispensable in order that the statistics should fulfill the purpose for which they are designed.

With regard to uniformity in customs classification, the committee realizes that there are serious obstacles in the way of its attainment. Notwithstanding this difficulty, however, it is convinced that no good reason has been advanced against the proposed unification, which would do no more than alter the grouping of goods.

Finally, this committee adopts the two proposals of the Uruguayan delegate recommending the publication of a commercial nomenclature and compendium of tariffs, and the determination of a general policy to be adopted in American tariffs. These projects are, in the opinion of the committee, feasible, of practical utility, and would be highly beneficial to trade and commerce. By means of the nomenclature a merchant of any country would be able to inform himself of the name of the merchandise in which he was interested and of the tariff rate to which it would be liable in each of the American Republics; by means of the compendium the several subdivisions and the total of all charges would be shown.

For these reasons the committee urges upon the International High Commission the adoption of the following conclusions:

1. *Resolved*, That the Brussels classification be adopted for the tariffs of the several American nations for statistical purposes, with the right to amplify this classification with such terms as may be deemed necessary, in order that merchandise at present appearing in one schedule may be subdivided and given under separate schedules; and with the right to add to the said classification within any one schedule such terms as may have been omitted;

2. That the type of currency adopted for such statistical purposes be that of each country, giving, however, the equivalents in the other commercial moneys, as well as in the money of account recommended by the International High Commission.

3. That the period to be covered by the statistics be that comprised between the first of January and the thirty-first of December of each year.
4. That the term "country of origin" shall mean that country in which the merchandise has been manufactured, or that in which it has undergone its last transformation.
5. That it is desirable that the Brussels nomenclature be adopted for the tariffs of all the American Republics, on the understanding that it may be amplified in the same form as that provided for statistical purposes.
6. That the Pan American Union edit and publish a commercial nomenclature and compendium of American tariffs. This commercial nomenclature shall contain the terms employed in American trade, in alphabetical order, with the differences in commercial terminology, synonyms, etc.
7. Each term with its equivalents in English, Spanish, Portuguese, and French shall bear a serial number corresponding to that appearing in the compendium of tariffs beside the column of each country.
8. The compendium of tariffs shall contain, on the same line as the serial number above mentioned, the schedule number of the article or in the absence of a number the section corresponding to each country, the units of measurement, weight, or capacity adopted as standards, and the total amount of duties or other charges payable to the customs authorities.
9. The nomenclature shall comprise four parts. The first shall begin with the English terms; the second with the Spanish; the third with the Portuguese; and the fourth with the French.
10. The units of measurement shall be those of the metric system, and the total amount payable shall be given in the equivalents of the leading commercial moneys and in the money of account recommended by the International High Commission.
11. That each of the sections of the International High Commission shall forward, within six months following the close of this conference, a classification of merchandise and other data referred to above to the institution charged with the publication of the nomenclature.
12. The nomenclature shall be published on or before the 1st of January, 1918.
13. That the compendium tariffs contain a statement of all customs duties and surcharges collectible for any reason on any merchandise, as well as the final aggregate of charges payable on any specific unit of weight or measurement in the form provided for in the model presented by the Uruguayan delegate. This model may be modified as may appear necessary, provided, however, it preserve its general lines and contain the final detailed statement to which reference has been made.

#### (B) CUSTOMS REGULATIONS.

In this subdivision of topic 3 the committee has had to confine itself to advising certain measures of a general character, as it was unanimously recognized that any conclusions which were to go beyond the limit above suggested would be of no practical utility. It is for many reasons impossible, at least for the present, to secure any uniformity in customs legislation on this point, owing to the very close relation it bears to the fiscal and economic situation of each country.

The Venezuelan delegate reserves his vote on clause 5, section B, on the ground that "in view of the extent and uninhabited nature of the frontier regions of Venezuela, traffic in these parts calls for special precautions to insure public order and safeguard fiscal interests." He added with reference to maritime traffic that the Government of Venezuela had under consideration the establishment of an international free port.

With this reservation, therefore, the committee submits to the International High Commission the following conclusions:

1. *Resolved*, That when satisfactory evidence has been furnished, packages not destined for the port in which they have been landed may be reshipped. These operations may be effected under satisfactory guaranties, which shall cover any infringement, in case the evidence is not furnished as above provided.



2. That instructions be issued to collectors of customs to authorize, on request of the interested parties, the preparation of outward cargoes in advance of the arrival of the vessel, subject to necessary customs regulations.

3. That the sanitary authorities, wherever possible, make their visits immediately after the vessel has arrived in port, either by day or by night, and on business days as well as on holidays.

4. That regulations be issued by the several Governments to permit the loading and unloading of ships, either simultaneously or separately, so soon as the vessel shall have arrived in port and the visit of the sanitary authorities be effected; this loading and unloading of vessels to be permitted on business days and holidays alike.

5. That facilities be given to international traffic of foreign merchandise through different countries, simplifying as much as possible the (customs) documentation that is necessary for such operations, taking at the same time all necessary precautions to prevent fraud.

It is recommended that merchandise in transit over the ways of communication of any country shall not be subject to charge, only being obliged to pay for the services rendered by adequate installations of the ports or of the roads traversed and of the service of supervision, on the same scale that merchandise pays for said services when intended for consumption in the country over whose territory it is in transit.

It is understood that this exemption of charges is only proper in such cases in which it may be compatible with the special circumstances, the resources, and the economic conditions of the country of transit.

6. That the customs authorities of the American countries indicate, in case their advice is asked and a sample of any article of importation is sent, the classification which it should receive in the customs schedule or respective tariff of appraisement and the duties to which it is consequently subject.

7. That packages of goods shall not contain any other marks than those specified in the manifests.

#### (C) CONSULAR CERTIFICATES AND INVOICES.

On this point the committee accepts some of the conclusions of the Fourth International Conference of American States held at Buenos Aires, and urges that they be made more explicit and definite. The committee recognizes the desirability of giving greater scope to these recommendations, but it realizes that it is impossible to do so for the present, for reasons of a fiscal order which can not be ignored. It therefore urges the adoption by the countries represented in this conference of the following recommendations:

1. *Resolved*, That the only consular documents required be the manifest of shipment and the invoice.

2. That the model invoice and manifest be those approved by the Fourth International Conference of American States.

3. That the consular certification of the bill of lading and the certificate of origin be dispensed with.

4. That only four copies of the consular invoice be required, but that the shipper be allowed to obtain additional copies on payment of a small charge for each copy.

5. That all weights and measurements be given in the metric system.

6. That the consular invoice be drawn up in the language of the country of shipment, as well as in that of the country of destination.

7. That consular fees, irrespective of the form adopted for their collection, be limited, as far as possible, to the amount necessary to cover the expenses of the Consular Service.

#### (D) PORT DUES.

The committee unanimously recognizes the impossibility of rendering these charges uniform in view of the diverse conditions and requirements of American ports. The committee believes, however, that the charges should be proportionate to the services rendered or to benefits received. For this reason it urges upon the International High Commission the adoption of the conclusions set forth at

the end of the report submitted by the Argentine delegation, the text of which is as follows:

1. *Resolved*, That port dues include no charge other than those covering services rendered or benefits received, and that the amount of these charges be, as far as possible, in proportion to the importance of the services rendered or of the benefits received.

2. That tonnage dues be computed on the basis of the registered net tonnage.

This committee has deemed it its duty to confine itself to recommending really practical conclusions. Only thus, in its opinion, will results be attained really commensurate with the noble aspirations of confraternity and common benefit which have brought together the representatives of the whole American Continent at this great gathering.

The Honduran delegate, Señor Zúñiga, objected to resolution No. 3 of paragraph B, providing for the inspection of vessels by the sanitary authorities during the night. He argued that under these conditions no effective search of a ship could be made, and pointed out that rats carrying bubonic plague might readily escape detection if the medical visit were made at night. Dr. Vázquez (Uruguay), rapporteur of the third committee, explained that this provision applied solely in the case of ships proceeding from ports where health conditions were normal; that a mere presumption that the ship had touched at a plague-infested port would, of course, call for the application of the corresponding sanitary regulations. The chairman of the committee, Señor Bonnemaison (Peru) corroborated the opinion of Dr. Vázquez, and explained the great inconvenience that would result from preventing night work. Almost all these vessels, he added, make long journeys, and a delay of 12 hours is often a great handicap. Provided the ship has a clean bill of health, no particular danger could be anticipated, all the more since action by the port authorities is made wholly discretionary.

Dr. Subercaseaux (Chile) called attention to the wording of recommendations 2 and 11 of paragraph A. He pointed out that the first committee had agreed upon the adoption of a money of account, and that therefore this provision was not adequately covered in the report. Dr. Bidau (Argentina) advanced the opinion that this slight discrepancy would unquestionably be remedied by the committee on resolutions so soon as it undertook the revision of the several reports.

Dr. Morales (Panama) called attention to the use of the term "International Bureau of American Republics." This name, he explained, had given place to that of "The Pan American Union." He furthermore desired to bring to the notice of the commission the fact that the recommendation in regard to the publication of a commercial nomenclature and compendium of tariffs would impose upon the Pan American Union an onerous charge which its present budget would hardly warrant. The chair explained that a resolution was in course of preparation which would arrange for the satisfactory carrying into effect of this and other resolutions.

Dr. Grisanti (Venezuela) noted the reservation which, on behalf of the Government of Venezuela, had been made by him on clause 5 of section B on customs regulations.

The report of the third committee was unanimously adopted.

This subject received careful consideration at the meeting of the Fourth International Conference of American States in 1910, according to the Argentine memorandum, which lays stress upon the necessity of a common basis of comparison for statistical purposes, and presents for discussion a draft of classification prepared by the inspector general of revenue of Argentina. In general, this schedule follows the United States tariff schedules as adopted for the Philippine Islands. In the matter of consular invoices and certificates, the memorandum recommends the use of the model manifest of shipment and invoice approved at the Fourth International Conference of American States and the suppression of the consular visé of the bill of lading and certificate of origin. As a sample of the multiform port charges levied by almost every American Government, the principal ones in force in the Argentine Republic are given.

(1) To cover costs of maintaining channels and the amortization of bonds for construction (per ton).

(2) Dock charges (per tonnage daily).

(3) Wharfage for loading and unloading purposes (per tonnage daily).

(4) For the use of cranes in loading and unloading ships (per ton of merchandise).

(5) Stowage charges (handling).

(6) Warehouse charges proportionate to the time the goods are stored.

In view of this situation uniformity is unattainable, all that could be reasonably expected is the elimination of every charge not commensurate with the service rendered.

A very excellent memorandum on this subject was submitted by the Brazilian delegation, setting forth in great detail the situation obtaining in Brazil. The following recommendations are made: (1) Revision of the present tariff, with a view to its reduction and simplification of procedure; (2) preparation of a special nomenclature; (3) determination, before dispatch and at the request of the parties interested, of the classification of the merchandise landed; (4) creation of an international commission whose duty it shall be to determine the real value of merchandise; (5) creation of a board of classification or court of arbitration with authority to deliberate and settle all disputes as to value, quality, or classification of merchandise.

On behalf of Uruguay, Dr. Eduardo Vázquez presented a conscientious and carefully prepared memorandum, the essential points of which are here presented.

With regard to nomenclature, the memorandum accepts, with certain modifications and additions, the plan suggested by Dr. Philippi, technical expert of the Chilean delegation to the Fourth International Congress of American States.

In the matter of tariffs, it was recommended that unification in classification could only be considered as an ideal. In the face of the great diversity of prevailing systems with different standards guiding these classifications, with the close relation they bear to the financial and economic interests of a nation, the moment is not ripe for this step. Earnest study and a constant and active propaganda will be needed to convince the general public of the importance and unquestioned benefits which the solution of this question would bring to the American nations.

The adoption of a uniform classification for statistical purposes will be an important factor in bringing about the desired results.

The adoption is advised of some of the conclusions reached in the report presented by the United States delegation. But consular intervention in manifests and bills of lading is essential to efficient customs inspection, and the several Governments would be reluctant to relinquish the corresponding revenue, which is largely used in the maintenance of the consular service. Therefore the Uruguayan report could not recommend the suppression of consular certification.

Uniformity in classification for statistical purposes is of the greatest moment. As these statistics are, however, so closely bound up with the tariffs, some formula must be devised to avoid this difficulty and which shall at the same time circumvent the obstacles in the realization of this purpose. It was, therefore, urged that, in addition to the present publications, another special document be issued following the lines laid down in which the data appearing in the other publications shall be given. Owing to its scientific character, and to the fact that the greater part of the American nations have already adhered to it, it seemed that the Convention of Brussels most nearly meets the requirements. Certain special schedules would have to be added covering articles of peculiar interest to the American countries. Lastly, the International High Commission should decide what method is to be adopted in determining the meaning of the terms "country of origin" and "of destination," the period to be covered by the statistics and the type of currency to be adopted as a basis of computation.

It closed with the following recommendations:

1. That instructions be issued to collectors of customs to authorize, on request of the interested parties, the preparation of outward cargoes in advance of the arrival of the vessel, subject to necessary custom regulations.

2. That sanitary authorities, wherever possible, make their visits immediately after the vessel has docked, either by day or by night and on business days as well as on holidays.

3. That regulations be issued by the several Governments to permit the loading and unloading of ships simultaneously or separately as soon as the vessel shall have docked and the visit of the sanitary authorities effected; this loading and unloading of vessels to be done on Sundays and holidays when necessary.

4. That permission be granted for loading and unloading simultaneously.

5. That, when satisfactory reasons have been furnished, packages not destined for a port in which they have been landed may be re-shipped. These operations may be effected under satisfactory guarantees which shall cover any infringement in case the evidence is not furnished as provided.

The Ecuadorean memorandum pointed out the two purposes of uniform classification for tariff purposes and for statistical purposes, and indorsed the Brussels Convention for statistical purposes. It acknowledged the existence of serious defects in the Ecuadorean tariff which were in process of correction by a legislative measure then pending in Congress.

The Haitian memorandum suggested the adoption of the *ad valorem* system with maximum and minimum rates by all the American

Republics. Special arrangement might be made for the movement of raw products so as to foster industry.

For the terminology to be used in any attempt at uniform classification of merchandise, the Salvadorean memorandum advocated the use of terms recognized only by the dictionary of the Spanish Academy, with a view to eliminating, as far as possible, localisms. In the customs regulations of Salvador, duties are levied on net-weight basis; each business house is compelled to register its name and trade-marks in the Treasury; all merchandise must be declared in invoices with the names appearing in the tariff law. The memorandum holds that on these general lines uniformity is certainly attainable with the general adoption of the metric system. No great difficulty presents itself for the regulation of port charges by international agreement, since those levied in Salvador are both few and simple.

The Venezuelan section held that before attempting to make a uniform classification of merchandise, uniformity in the large divisions formed for the purpose of customhouse collection was essential.

The section believed that the classification indorsed by the Brussels Conference is rather general, and it recommended the use of the same terms to designate the same goods in the several countries.

As to customs regulations, this section's report compared the resolutions adopted by the American International Conference of Buenos Aires of 1910 with the provisions of the Venezuelan law and it proposed the adoption of Resolution I of the Buenos Aires Conference. Regarding Resolution II, there is substantially no difference from the practice in Venezuelan ports, where the law grants a period of 24 hours before the arrival of a vessel in which to deposit the cargo on the wharf. As to Resolution III, the Venezuelan law allows loading at the captain's request at extraordinary hours, and even on Sundays and holidays whenever steamers have fixed dates for sailing. Resolution IV was felt to have no application in Venezuela, which has trade in land transit only with Colombia. The strict regulations in force are designed to stop smuggling. As for Resolution V, the section stated that customhouse collectors are not empowered to make any classification of samples, which must be sent to the minister of finance for his decision.

A revision of the fiscal code was suggested, so as to afford greater liberality to international trade.

Consular certification on invoices and bills of lading is intended to guarantee their genuineness and their compliance with the fiscal regulations. The duties charged for this service should be lower.

Consular invoices were regarded by the section as indispensable. The exact form of the invoice is not fixed by law, which only demands that it supply certain information in one or another form. The advisability of a uniform consular invoice was urged.

For countries which, like Venezuela, levy ad valorem duties, the sworn statement as to the value of the goods is of the highest importance. The requisites of the United States law are so thorough and easy of verification that a fraudulent declaration is almost out of the question. Possibly the easiest course would be to accompany the consular invoice with a commercial invoice giving the value of each package and omitting details.

The section also felt that the amounts charged for health visit, etc., at Venezuelan ports were moderate, while the municipal dues,

there as elsewhere, seemed to be capable of reduction. Tonnage dues should be based rather on cargo tonnage unloaded than on registered tonnage.

## XL

The fourth committee submitted its report on the adjustment of commercial disputes by means of arbitration. This report follows.

SIR: The fourth committee, to which was referred the seventh topic on the program—*extension of the procedure of arbitration for the adjustment of commercial disputes*—submits the following conclusions to the International High Commission:

1. *Resolved*, That the International High Commission approve and adopt the principle of friendly arbitration as the most adequate means of settling disputes that may arise between merchants resident in the American nations out of contracts of an international character.

2. That the International High Commission recommend the adoption by all of the American nations of the convention on international commercial arbitration entered into by the Chamber of Commerce of Buenos Aires and the Chamber of Commerce of the United States of America.

3. That the International High Commission urge upon the Governments of the American nations that as soon as possible adequate laws be enacted or other measures taken whereby all commercial controversies of an international nature shall be settled by means of friendly arbitration; that it furthermore urge that in the absence of a special agreement to the contrary between the contracting parties the committee on arbitration should sit in that country in which the respective contract is to be carried into effect or in which is located the merchandise over which the suit has arisen.

Mr. John H. Fahey had been designated by the fourth committee to present its report. He spoke as follows:

It is a pleasure to be able to report to this distinguished gathering one of the first practical accomplishments resulting from the Pan American Financial Conference in Washington last May, in the conclusion of an agreement for the arbitration of commercial disputes between the Chamber of Commerce of Buenos Aires and the Chamber of Commerce of the United States, for the benefit of the business men of both countries. This useful measure has been perfected through the leadership of Dr. Ricardo C. Aldao, member of the Argentine delegation to the conference, and the cooperation of President Zuberbühler, of the Buenos Aires Chamber of Commerce.

Dr. Aldao presented his proposal for commercial arbitration between our countries to the Argentine committee where it was unanimously approved. A meeting with officers of the Chamber of Commerce of the United States attending the Pan American Financial Conference followed, and a resolution was reported by the Argentine committee to the general conference indorsing the idea and announcing that arrangements had been made for the negotiation of an agreement by a joint committee representing the commercial bodies of the Argentine and the United States. The general interest in arbitration was indicated by the fact that the committees representing Cuba, Paraguay, Peru, Uruguay, and Venezuela in their reports also indorsed the suggestion that means be provided for the settlement of commercial controversies by arbitration.

Immediately after the adjournment of the Pan American Financial Conference a joint committee consisting of Dr. Ricardo C. Aldao, of Buenos Aires, and Frank A. Vanderlip, Charles L. Bernheimer, James G. White, William S. Kies, of New York, and myself, met in New York from day to day from June 3 to June 9, and drafted

an agreement between the Chamber of Commerce of Buenos Aires and the Chamber of Commerce of the United States providing for arbitration and definitely setting forth rules of procedure. This agreement was taken to Buenos Aires by Dr. Aldao of the Argentine committee when he sailed for home, and after careful study by the Chamber of Commerce of Buenos Aires was finally approved, with very slight changes, in December, 1915, and transmitted to the Chamber of Commerce of the United States by President Luis E. Zuberbühler. The changes were promptly accepted by the Chamber of Commerce of the United States at a meeting in Washington soon after the receipt of the papers from the Argentine. I have, therefore, been able to come here with full authority from the Chamber of Commerce of the United States to settle any minor details necessary to put this arbitration plan in operation, and I am pleased to report that these details have been arranged.

It is an interesting fact that although the principle of arbitration for the settlement of commercial disputes with consequent great savings in time and money to business men over the necessarily slow and expensive court procedure has been a feature of the work of business organizations in Europe and in the countries of North and South America for many years, this is the first international agreement along these lines that has been perfected. The subject has been discussed in international gatherings for years, and at the International Congress of the Chambers of Commerce held in Paris in 1914 arbitration was unanimously indorsed and provision made for the calling of a special conference to establish a system between the business organizations of Europe and those of the United States. The unfortunate intervention of the war, however, prevented the consummation of this plan, and it has remained for the countries of the Western Hemisphere to undertake the first work.

The code agreed upon is comparatively simple. It is first provided that the Chamber of Commerce of Buenos Aires, representing the business men of the Argentine, and the Chamber of Commerce of the United States, in like manner representing those of our country, shall do all in their power to influence and encourage the employment of arbitration in business questions arising between the merchants of those countries.

Permanent agreements may be entered into between business men of the two countries under which disputes shall be settled in accordance with the plan devised by the two chambers, and a specific transaction closed by cable may be settled in the same manner, in case of difficulty, by the incorporation in the cable exchanges of a code word having reference to the agreements and providing for arbitration.

Under the terms of our understanding, the Chamber of Commerce of Buenos Aires binds itself to maintain a committee of arbitration of five members resident in the Argentine, three of whom are named by the Buenos Aires chamber and approved by the Chamber of Commerce of the United States and two of whom are named by the Chamber of Commerce of the United States and approved by the Buenos Aires organization. The Chamber of Commerce of the United States in turn maintains a similar committee in the United States selected in like fashion. These committees have charge of all arbitrations conducted in either country.

In the Argentine there is established a permanent list of thirty representative and responsible gentlemen representing different lines of business who may act as arbitrators. Fifteen of these are selected by the Chamber of Commerce of Buenos Aires and approved by the Chamber of Commerce of the United States. A like number is nominated by the Chamber of Commerce of the United States and approved by the Buenos Aires chamber. In the United States a similar arbitration board is chosen under exactly the same conditions. In the event of a dispute between our business men, if they do not agree between themselves on three arbitrators to settle the questions arising, then the committee on arbitration maintained in the country where the arbitration is to take place selects three arbitrators from the regular list of thirty resident in that country.

The arbitration committee being appointed, the trial of the case then proceeds under a carefully drawn set of rules providing for all contingencies it has been possible for our joint committee to forecast.

Rules are also set forth for the sale of merchandise under the direction of the committee on arbitration where there is danger of loss arising from failure promptly to dispose of the merchandise or the accumulation of charges if goods ordered are not accepted.

It is a part of our agreement that the Chamber of Commerce of Buenos Aires and the Chamber of Commerce of the United States shall publish periodically in detail results of all arbitrations and shall use every influence at command to aid in the enforcement of awards. It is the unanimous opinion of the joint committee, representing the two countries, which formulated this agreement that the moral pressure and influence which can be exercised by the organizations will be more effective in many respects in securing prompt settlements than court intervention.

We have now concluded these negotiations and will proceed with the appointment of the committees of arbitration in the two countries and the choice of the permanent arbitrators.

It was the sense of the delegates participating in the Pan American Financial Conference in Washington that the joint committee to which I have referred should undertake to work out an agreement, and when it was in satisfactory form it might be adopted by such countries as care to enter into it. The Fourth Committee of the International High Commission has now formally approved the plan which has been arranged and recommends the adoption of similar agreements by any of the countries now prepared to follow such a course. The Chamber of Commerce of the United States, which represents a federation of the business organizations of our country to the number of nearly 750, is ready on its part to sign agreements, along the lines of that entered into with the Buenos Aires Chamber of Commerce, with responsible business organizations of any of the other countries.

Since this enterprise represents a new forward step, it is likely, of course, that experience will demonstrate that changes should be made in the detail of procedure from time to time, and provision is made for such changes by joint action, but it is our opinion that a firm foundation has been established and that the terms agreed upon represent justice and equity.

Dr. Aldao affirmed that the first practical result of the Financial Conference of Washington of May, 1915, had been the affixing of the signatures of Mr. Fahey on behalf of the Chamber of Commerce of



the United States and of Señor Zuberbühler on behalf of the Bolsa de Comercio of Buenos Aires to the agreement to submit all commercial disputes to arbitration. To appreciate the importance of this event, one has merely to recall that Mr. Fahey represents no less than 750 chambers of commerce and commercial bodies in the United States; that is to say, that this agreement has been subscribed by practically every manufacturer and business man of the United States. The same thing may be said with regard to the Bolsa de Comercio of Buenos Aires, which legally represents all commercial interests in the Argentine Republic. Amplifying his statements, Dr. Aldao showed that the South and Central American Republics are for the most part buyers and not sellers. Experience has shown, too, that the difficulties generally arise from the sale by United States merchants to these Latin-American buyers. Hitherto all such controversies have been ventilated in the ordinary courts of law. This method is necessarily slow and costly, since our law requires the presence of the claimant in Buenos Aires or the appointment of a duly accredited attorney in fact, who is called upon to deposit a heavy bond. Some of the more palpable obstacles are pointed out, as follows: The need of appointing an attorney in fact in the foreign countries, the requirement of an execution bond to cover judicial costs prescribed by every foreign legislation, the difficulty of offering evidence before courts situated thousands of miles from the witnesses and the property in dispute, and the heavy expense involved. All these obstacles will practically be eliminated by the adoption of the convention just signed between the Chambers of Commerce of the United States and of Buenos Aires.

On behalf of Uruguay Señor Piera stated that the Chamber of Commerce of Uruguay had accepted the principle of arbitration in the matter of commercial disputes prior to the recommendation of the committee.

Note was taken of the reservation of the Venezuelan delegate, Dr. Grisanti.

Much interesting matter is to be found in the studies upon which the report of the fourth committee was based.

The Uruguayan delegation frankly indorsed the principle and submits as an appendix a communication from the president of the Chamber of Commerce of Montevideo, in which this corporation goes on record as giving "its warm adhesion to the suggestion as well as its approval of the stipulations of the agreement entered into between the Chambers of Commerce of the Argentine Republic and of the United States. This chamber believes that the adoption of the arbitral process advocated can not fail to bring beneficial results, and international trade will then be able to settle its differences without needless delays and at reasonable rates."

The Ecuadorean delegation points out that "before arbitral awards can have the necessary legal validity the courts rendering them should have been constituted according to the laws of the Republic. Any such arbitral tribunal operating in Ecuador would lack force of law and its decisions would fail of one of the essential attributes of a judgment—efficacy." Notwithstanding this legal obstacle, it is thought that agreements such as the Buenos Aires-United States Chambers of Commerce convention would no doubt be successful in almost every instance, for they would have a strong moral sanction.

The Haitian delegation likewise shows that their laws would have to be altered before any such agreement were feasible.

The Salvadorean memorandum indorses the principle of the establishment of a permanent court for the settlement of commercial disputes on the following basis: That the court be formed of delegates of all the American Republics, each delegation having a vote, on the theory of juridical equality of all the States; the arbitration to be awarded on the interpretation of treaties entered into prior to the establishment of the arbitral tribunal.

The principle is likewise indorsed in the Brazilian memorandum, which points out that the new commercial code which has just been submitted to Congress sanctions the making of contracts whereby it is agreed to settle by arbitration any disputes arising between members of any commercial bodies.

The Venezuelan memorandum showed that in Venezuela arbitral awards lack power of enforcement by themselves; they must receive their sanction from competent jurisdiction. Awards dictated abroad would not be enforceable in Venezuela unless they had received the sanction of the respective judicial authority of the country dictating the same.

In conclusion, the agreement entered into between the chambers of commerce of the United States and Argentina can not be sanctioned as a governmental institution in Venezuela. It can only be accepted as a social institution whose establishment and operation might be recommended to the Venezuelan chambers of commerce.

## XII.

The report of the fifth committee on postage rates and on money-order and parcel-post facilities was submitted. The report follows:

SIR: The fifth committee, of which I have the honor to be chairman, herewith submits the report of the subcommittee on *postage rates, parcel-post and money-order facilities*, with a favorable recommendation.

I have the honor to be, sir, etc.

(Signed)

E. VILLAZÓN,  
Chairman.

### REPORT OF THE SUBCOMMITTEE ON POSTAGE RATES, PARCEL-POST AND MONEY-ORDER FACILITIES.

The subcommittee, to which was referred the study of the topic *Postage rates, parcel-post and money-order facilities* held several meetings at which the following members were present: Duncan U. Fletcher, Alfredo Echagüe, Gualberto Cardús Huerta, Luis Piera, and Guillermo Wilson.

After due consideration of the various reports presented and an exchange of views for the purpose of obtaining a consensus of opinion, the subcommittee submits this resolution to the committee:

*Resolved*, That the International High Commission recommend that the Governments of the countries represented in this conference adhere to the Postal Congress of Montevideo of 1911, accepting the postage rates established therein as well as its provisions relative to parcel-post and money-order facilities, thus transforming the South American Postal Union into an American Postal Union.

It likewise desires to express its ardent hope for a reduction in the present rates as soon as possible.

The subcommittee further suggests that as soon as the proposed adhesion of the countries which do not at present form part of the South American Postal Union be secured, a postal conference be held to discuss the possibility of such a reduction.

(Signed)

DUNCAN U. FLETCHER. ALFREDO ECHAGÜE.  
GUALBERTO CARDÚS HUERTA. LUIS PIERA.  
GUILLERMO WILSON.

The report was unanimously adopted.

The report was based on the following memoranda.

The Argentine memorandum states that Argentina was the first South American country to establish reduced postal rates to contiguous countries, Bolivia, Brazil, Chile, Paraguay, and Uruguay. From the year 1892, the postal authorities reduced first-class mail rates from 12 to 10 cents. This rate was later accepted by the Postal Congress of Montevideo of 1911 for the whole South American Continent. Subsequently the postal authorities at Washington, communicating with all the other American countries, remitted a project of convention by which, from and after the 1st of January, 1915, rates for first-class matter among the American nations would be the same as the domestic rate in each particular country; in a word, the formation of a single American postal union. This project was unfortunately interrupted by the outbreak of the European war and the fear entertained by each Government of a great reduction of revenue by its adoption. The principle involved, however, was warmly endorsed and the suggestion made that after the first economic derangement brought on by the war the present moment was more propitious, at least so far as Argentina is concerned, than that through which the Government was passing 22 years ago when it adopted the reduced rates referred to above. From the purely economic standpoint, too, it was pointed out that there would not be such a loss as feared by certain countries. The example of New Zealand was quoted where, as a result of this reduction, international trade with Great Britain increased from 2 per cent in 1892 to 35 per cent in the first year after its introduction, 48 per cent in the second, and 72 per cent in the third, while the increased expenditure did not exceed 5 per cent.

In the matter of postal drafts, almost all the countries carry on a direct exchange of postal orders on the basis of the Paris Convention of 1878. This convention was subsequently modified and perfected in the International Congresses of Lisbon (1885), Vienna (1891), Washington (1897), and Rome (1906). The Rome Convention has been put into force by the following countries on the American Continent: Argentina, Bolivia, Brazil, Chile, Honduras, Peru, Salvador, and Uruguay. The Montevideo Conference of 1911 approved certain modifications to the Rome Convention, which have, unfortunately, not yet been put into force. The Montevideo Convention has been signed by Bolivia, Brazil, Colombia, Chile, Ecuador, Paraguay, Peru, Uruguay, and Venezuela. The parcel-post service of Argentina, Bolivia, Chile, the Dominican Republic, Brazil, Peru, Uruguay, Venezuela, and Paraguay, through the intermediary of

Argentina, is governed by the Postal Union in accordance with the stipulation of the Rome Convention. The system allows parcels of a maximum of ten kilograms and the rate is identical for all. The convention in general is a skillful and scientific piece of machinery which has worked admirably. It is to be regretted that the United States is not a signatory to either the International Money-Order Convention or the Parcel-Post Convention of Rome. To remedy this it has been obliged to enter into almost fifty separate agreements.

The Costa Rican memorandum regretted that fiscal conditions prevented the adoption of the suggestion to increase from 15 to 28 grams the maximum weight for first-class matter and to apply the domestic rate in all other American nations.

The Uruguayan memorandum naturally emphasizes the active participation by Uruguay in postal matters, inasmuch as the South American Postal Congress of Montevideo was due to Uruguayan initiative. This convention fixed the rate of 4 cents for each 20 grams. Since the Montevideo Conference, the United States Government has suggested a second postal congress designed to promote the use for the whole American Continent of domestic rates. This suggestion received warm endorsement. The memorandum closes with the recommendation that a second postal congress be held shortly at Montevideo.

The Salvadorean memorandum accepts the proposition of the Washington postal authorities for the establishment of domestic rates for all inter-American first-class mail. For this purpose the abolishment of transit and maritime charges is highly to be desired. In the matter of parcel post the memorandum urges the reestablishment of the bonuses established by the Postal Union so that the receiving country may be reimbursed for the expenses entailed by the service.

The Venezuelan memorandum recommends that parcel postage in Venezuela be reduced. The reestablishment of international money orders so that the country can become a signatory to the international Postal Order Convention. The section shows that the small traffic in money orders with the United States is due to the fact that in the United States heavy rates are collected to the detriment of trade. It proposes that the United States be recommended to reduce simultaneously the tariff in the country of origin as well as in that of destination, and that the charges be equitably distributed as is done in the Rome Convention. It likewise recommends the holding of a convention on parcel posts by the countries of the Western Hemisphere inspired in the Rome Convention.

On behalf of the United States delegation, Senator Fletcher submitted a memorandum, of which part follows.

I need hardly to repeat the truism that the extension of commercial relations between countries so far apart as the republics of South, Central, and North America will rest first and foremost upon the establishment of rapid and reliable means of communication. Nor do I need to dwell upon that other well-known fact that in every country the Government is directly responsible for the liberality and constructive character of its postal service. Every country must be ready to consider the necessities of its economic and social life when it deals with postal problems; it must not limit itself to a mere conservative point of view, contenting itself with the maintenance of a service which fails to advance rapidly enough to keep up with the

ever-increasing complexities of our modern civilization. Not the cost and technicalities of the service should be the first consideration, but the extent to which the Government may justly go in order to put at the disposal of its merchants and its producing classes, urban or rural, every facility that can be of service in increasing their efficiency and consequently enriching the nation as a whole. A deficit in the postal service is in no sense a reproach to an administration; it ordinarily implies the existence of a progressive and ample service to the people, under the direction of men inspired by the sincerest desire to improve the service by any addition that will make it a more effective and helpful agent in contributing to the happiness of the nation.

Turning to the program which must engross our closest attention, permit me, gentlemen, to suggest the steps which I believe we can most fruitfully consider for the improvement of our postal systems, especially with regard to international communication. And, first, let me suggest that the South American Postal Union held at Montevideo in 1911 become an Intercontinental Union, and that its permanent organization be effected at Montevideo. There is no reason why we could not have in the American Hemisphere a union of a technical character, paralleling the work of the International Union of Berne, and, I need hardly stop to note, cooperating most cordially with the work of the International Union of Berne. But we need to arouse interest in postal problems among the people of our republics in a way perhaps that has not been necessary in Europe. Then, too, the character of our two great continents, and the difficulties of transportation on land and sea, give rise to questions that have never troubled the European technical experts, and I think our Governments are willing to go as far as any of the Governments of Europe have gone in mutual cooperation, while it is our business here at this conference to assure their willingness to go even farther than any European Government has gone. To be sure, each Government must attend to its own affairs and guide its postal system on a rational basis in accordance with its national needs, but it is of urgent importance not merely commercially and financially, but socially and intellectually, that its postal service receive and give with something more than mechanical justice the fullest possible support in its work of developing materially and educationally its people.

I am sure that considerations of this character animate the postal authorities of all our Republics and I believe that they are willing to cooperate in the most cordial manner, one with the other. It is fitting, if this be true, that there be established some agency enabling them to discuss freely their problems and bring before each other suggestions as to the manner in which one or another improvement in international relations could be assured. Such an agency would undoubtedly exist if a technical body were established at Montevideo, the scene of that first technical postal congress of the South American Republics five years ago. A union divested of diplomatic and political character and carrying on its work along the broad lines laid down by the European unions, with a council consisting of one technical expert from each Republic, would undoubtedly go far in facilitating the postal relations of our countries. All the matters that are now dealt with by the diplomatic representatives of our

Governments, could be treated with much more expedition through this technical body; and while the good offices of the diplomatic representatives would be called into play at the time of formal preparation of conventions, all the preliminary work could be done far more expeditiously than is now the case by the technical body to which I refer.

With regard to some of the problems that might properly devolve upon such a postal union, let me begin by referring to the parcel-post service. The United States now has a service with more than 50 countries and colonies, and the authorities at the head of our vast postal system are bending every effort to effectuate conventions and agreements that at all times will simplify the arrangements for the transmission of parcels and packages—especially through the amelioration of customhouse requirements.

A matter that particularly presses for attention is the onerous character of the charges in many countries under the headings of delivery fees and custom duties which in some cases are exorbitant when compared with the value of the articles in transmission. These important questions, together with the devising of a method of ascertaining promptly and accurately the cause of delay or loss of parcels, could be dealt with most efficaciously by a group of postal experts working each of them for the best interest of a broad and liberal postal system in his own country and all of them solicitous for the effectiveness and general reputation for helpfulness of the organization of which they would be members.

It is clear that we must establish and standardize at a minimum rate the charges for the transmission of parcels between the countries of South and Central America and the United States. Our Government is anxious to be told in just what ways it can best cooperate in bringing about this happy result, and it will do everything that is incumbent upon it to be of the greatest possible use to its sister Republics. We hold, for instance, that Governments should protect against the losses of portions or the whole of the contents of any one parcel, since it is obviously almost impossible ever to fix the responsibility when a parcel has been transmitted through many hands by some of which it might legally have been opened in the pursuit of duty. This again is a matter upon which diplomatic intervention or consular inquiry is invoked in vain; rational but firm regulations must be drawn up under the auspices of a technical body according to which matters of this sort would adjust themselves comfortably and effectively.

Would it be too much to hope, too, that such an inter-American postal union would in time achieve the means of reducing the rates on first-class mail, when the economic conditions of the various countries would warrant so desirable a change? I do not need to point out to you gentlemen the advantage of reduced rates; nor do I need to emphasize that the lower the rates the greater the encouragement to correspondence, commercial and otherwise, and the greater the assurance that the service would be self-supporting or nearly so, and in any case, will contribute more than any other one element to the material and spiritual bringing together and enrichment of the peoples involved. In 1912 the letter-postage rate between the United States and Central and South America was fixed at that called for by the universal postal congress of Rome in 1906. The provisions of this congress became operative in 1907, and it fixed the postal rate for

letters at 5 cents for the first ounce or fraction and 3 cents for each additional ounce or fraction. However, by special convention the United States has established a 2-cent rate with certain other countries and I feel sure that all of these countries regard the change as most advantageous. I do not contend that it is the sole cause or even a controlling cause of the growth of satisfactory trade relations between my country and others, but I am confident that this liberal policy of reduction of postal rates has contributed substantially and effectively to the improvement of trade relations.

Our Government is ready to propose the same action to all the States of the American Continent. We are anxious to grant the domestic rate of 2 cents, and our Postmaster General only hopes that others will take advantage of any appropriate opportunity to enter such an agreement. Some of your Governments have replied to this proposal to the effect that favorable action will be given to the proposition at as early a time as may be found practicable. I am not betraying any secret when I tell you that the Postmaster General proposes to submit to the Central and South American Republics the same arrangement at the cessation of the European war. He is very enthusiastic and constantly repeats his profound conviction and belief that such an arrangement would more than offset the temporary loss in postage revenue by the increase in the volume of mail matter. I am not sure that he would not consider compromise propositions whereby if not the domestic rate a rate lower than that established by the congress of Rome could be availed of. At all events in his name I most earnestly urge you to give the closest attention to this question of reduction of rates and to make any suggestion to him that you believe likely to conduce to the best interests of us all.

We need a consistent and sustained American policy with regard to the money-order system which is such an undeniable agent for the carrying on of commercial and financial transactions. The United States has money-order agreements with only four countries of South America and this fact is a severe handicap upon all of us. I cordially indorse the recommendation of my colleague on this committee, Dr. Alfredo Echagüe, a distinguished authority upon this matter, to the effect that the modifications suggested by the Postal Congress of Montevideo in 1911 be incorporated by all of our countries into the conventions which form the base of their relations with the International Postal Union.

Permit me in closing to express the deep interest I have felt in the suggestion made by Dr. Echagüe to the effect that publications of a scientific and commercial character be transmitted under domestic rates throughout all the American Republics. This suggestion has great merit and it is for us to give it the very closest consideration. All of us must consult our Governments, for this is a matter of broad general policy, but when the policy has been determined all of us will agree that the place to work out the details of any such arrangement would undoubtedly be the Postal Union of Montevideo. Likewise, I find highly practical the suggestion made by my Uruguayan colleagues that a second postal congress be called for the initiation of just such studies as I have referred to above, and I assure them that I desire most heartily to indorse the suggestion in the name of the Government that I have the honor to represent.

On the request of Dr. Lobos, Dr. Piñero was appointed to replace him on the committee on resolutions.

The meeting adjourned at 12.50 p. m.

## SEVENTH GENERAL SESSION, APRIL 12, 1915—AFTERNOON.

### SUMMARY.

- I. Order of the day.
- II. Resolution on the holding of a second Pan American financial conference.
- III. Report of the second committee on chattel mortgage and conditional sales legislation.
- IV. Report of the second committee on bills of exchange and other negotiable paper of international trade.
- V. Motion of Dr. Inglez de Souza on status of convention on bills of exchange in each country.
- VI. Report of the fifth committee on patent, trade-mark, and copyright legislation.
- VII. Resolution of the Uruguayan delegation on the holding of a conference on admiralty law.
- VIII. Resolution of the Uruguayan delegation on an American customs agreement.
- IX. Report of the committee on resolutions.
- X. Supplementary report on uniform sanitary regulations.
- XI. Tribute to the presiding officer of the meeting.
- XII. Tribute to the President of the Argentine Republic.
- XIII. Adjournment.

### I.

The secretary general, on the approval of the minutes of the preceding session, read the order of the day as follows:

(1) Report of the second committee on chattel mortgage and conditional sales legislation.

(2) Report of the second committee on bills of exchange and other negotiable paper of international trade.

(3) Report of the seventh committee on a conference on admiralty law.

(4) Report of the fifth committee on patent, trade-mark, and copyright legislation.

(5) Supplementary report of the third committee on sanitary regulations for American trade.

### II.

The chairman of the Uruguayan delegation (Dr. Cosio) made a motion from the floor suggesting the advisability of holding a second Pan American Financial Conference in Washington at a date to be determined later. The resolution is as follows:

*Resolved*, That it is highly advantageous that a Pan American financial conference of the character of that held in Washington in 1915 meet every two years; that the next Pan American financial conference take place in 1917 in Washington, the exact date to be agreed upon subsequently among the various Governments on the initiative of the central executive council of the International High Commission; that the ministers of finance of all the countries of the American Continent be urged to attend in view of the fact that the financial questions there to be discussed constitute the most important problems of these conferences, and in view also of the fact that the presence of these ministers is conducive to the more effective carrying out of the resolutions adopted.

It was decided to defer consideration of this resolution to later in the session.



## III.

Consideration of the first item on the order of the day was begun with the reading of the report of the second committee on chattel mortgage and conditional sale legislation as follows:

SIR: I have the honor, on behalf of the second committee, which has had under consideration the thirteenth topic of the program, to recommend the adoption of the following resolution:

*Resolved*, That the International High Commission recommend to the Governments of all the American countries the inclusion in their legislation of provisions assuring the legal status of credits arising from the sale of merchandise.

I have the honor to be, sir, etc.,

(Signed) HERCULANO M. INGLEZ DE SOUZA, *Chairman*.

The report as read was unanimously adopted.

This topic was submitted by the Argentine delegation very shortly before the meeting convened. This circumstance probably accounts for the small number of memoranda. That submitted by Dr. Aldao on behalf of the Argentine delegation is an extremely clear and valuable piece of work.

Almost all of the South and Central American nations have not yet passed from the stage of producing raw materials to that of manufacturing goods. In this stage of their economic development, credit facilities play an important rôle and in this the European nations have been more progressive than the United States, for reasons into which it is not pertinent here to enter. "Credit facilities are a commercial necessity in the majority of our countries \* \* \* and to induce the manufacturer to grant such credits in favor of the foreign vendee it is essential that the laws in the buyer's country should offer the seller the necessary guaranties of a certain preference in the event of the insolvency of the former." Dr. Aldao sees no reason why the vendor of chattels should not have the same protection as that accorded to the vendor of realty and that his rights should be superior to those of the pledgee or mortgagee. Finally he lays stress upon the necessity of compelling the merchant to make a detailed entry in his books not only of his cash sales but of conditional sales as well. Measures of this character will tend to inspire the necessary confidence in the granting of credit.

## IV.

The meeting next considered the report submitted by the second committee on bills of exchange and other negotiable paper in international trade. This report follows:

SIR: The committee has examined the reports filed by the delegations of Venezuela, Uruguay, Salvador, United States, Costa Rica, Chile, Brazil, and Argentina, and has also taken into consideration the opinions expressed by the delegates from these nations and by the representatives of the Republics of Paraguay, Ecuador, and Bolivia.

The committee has considered the following subjects:

1. Bills of exchange and promissory notes.
2. Checks.

3. Bills of lading.
  4. Warehouse receipts.
- and begs to report as follows:

#### BILLS OF EXCHANGE.

After the debate had been opened several opinions were expressed as to which law should serve as a basis, the majority voting in favor of the Uniform Law approved in The Hague Conference of 1912 and the convention relative to the same of July 23, of the same year.

Dr. Melo, speaking on behalf of the Argentine delegation, stated that as regards article 74 of the Uniform Law he maintained the reservations formulated by his Government, to the effect that the capacity to bind oneself by a bill of exchange, as well as general capacity, should be governed by the law of domicile and not by that of nationality, and that the right of recourse should not be admitted.

Dr. Jiménez de Aréchaga, delegate of Uruguay, also adhered to this reservation. Dr. Ayala, of Paraguay, stated that the law of domicile is also applied in his country.

After the committee had decided to adopt the Uniform Law and Convention of 1912, it proceeded to consider the reservations authorized by that convention, bearing in mind the end in view, namely, uniformity in the laws of the American States which have either signed or in the future may adhere to this convention, in such matters as are left to the option of the contracting States.

Your committee takes pleasure in stating that the recommendations hereinafter set forth tend to a more complete unification of the legislation of the Latin American States, as well as to decreasing the differences between the only two systems of legislation which, after the adoption of The Hague Uniform Law by the Ibero-American Governments, will govern bills of exchange on the American Continent.

The recommendations made by this committee are as follows:

A. That such States represented in this conference as took part in the convention and drafting of the Uniform Law of The Hague in 1912 relating to bills of exchange and promissory notes should ratify that convention and adopt that law as a part of their own legislation; in the case of States which may not have been signatories to The Hague Uniform Law that they should become parties to the convention in accordance with article 26 of the same. The study of article 74 of the Uniform Law of The Hague and of articles 18 and 20 of the convention is referred to a subsequent conference, without expressing any opinion on the subject.

B. (1) As to article 2 of The Hague convention, the committee is of the opinion that the term "bill of exchange" should not be considered essential to the validity of that document, and that by virtue of the powers granted under the said article 2 this designation may be substituted by the expression "to order." For this purpose article 2 should be amended by adding after the first paragraph the following words:

A bill of exchange which does not bear the designation "bill of exchange" shall be valid, provided it contains the express indication that it is "to order."

(2) As to article 3 of the convention, it is of opinion that the power reserved under this article should be maintained by each of the States represented in this conference.

(3) As to article 4 of the convention, your committee believes that use should not be made of the reservation authorized under this article, and that the different States should adhere to the terms of the Uniform Law.

(4) With regard to article 5 of the convention, your committee believes that all the States should adopt the reservation authorized under this article, so that the guaranty (*aval*) may be given by a separate document.

(5) With regard to article 6 of the convention, the committee is of opinion that the reservation authorized by this article should not be adopted and that all the States should adhere to the terms of the Uniform Law.

(6) With respect to article 7 of the convention, the committee believes that the power granted under this article to supplement article 37 of the Uniform Law should not be exercised, and that the several States should adhere to the Uniform Law.

(7) As regards article 8 of the convention, the committee recommends that the power granted under this article be exercised and that all the States adopt the principle of authorizing the holder of a bill of exchange to refuse partial payments thereon.

(8) With respect to article 9, the committee is of the opinion that all the States should take advantage of the power granted under this article and establish the rule whereby with the assent of the holder protests may be replaced by a declaration dated and written upon the bill itself, signed by the drawee and transcribed in a public register within the term fixed for protests.

(9) With regard to article 10, the committee is of the opinion that the authority granted under this article should not be exercised and that the States should all adhere to the terms of article 43 of the Uniform Law.

(10) Regarding article 11, it is recommended that use be made of the power herein granted, and that all the States adhere to the rule that notice of nonpayment may be given by the public officer charged with drawing up protests.

(11) With regard to article 12, that all the States should exercise the power granted under this article, by adopting the rate of 6 per cent instead of 5 per cent as specified in the Uniform Law; and that they should all likewise adopt the rule laid down in the second paragraph of article 12 of the convention.

(12) With regard to article 13, it is recommended that all the States adhere to the rule contained in this article, whereby in case of loss of right of recourse or of prescription an action shall lie against the drawer who has not provided cover or against the drawer or indorser who has made any inequitable gain; and whereby the same shall exist in case of prescription when the acceptor has received cover or has made any inequitable gain.

(13) As regards article 15, the committee is of the opinion that the States should uniformly exercise the power granted under this article, and consequently adopt for those cases in which a bill of exchange has been lost or destroyed the following rule:

The owner of a bill of exchange which has been lost or destroyed either before or after acceptance and containing one or more indorsements may demand payment of its value as if he had presented it to the obligor, provided he comply with the following conditions: The obligor has the right to require of the party claiming payment as a condition for the voluntary payment of the bill a satisfactory guaranty of such form, amount, and character as may secure him; and this guaranty shall inure to the benefit of all persons who may voluntarily pay the bill either in whole or in part. The guaranty thus given shall release all obligors against any further claim of liability under the bill of exchange. Should the owner of a lost or destroyed bill of exchange be unable for any reason to obtain the voluntary payment in the manner above specified, he shall have the right, on proof of ownership as well as of loss or destruction, to institute action for the enforcement of the payment of that bill of exchange by the obligors, provided he offer the same guaranty and for the same purposes as in the case of voluntary payments. In such event the court shall decide on the sufficiency of such guaranty.

(14) As regards article 16, the committee considers that each of the States should retain the power to determine the causes of interruption and suspension of prescription in the case of actions on bills of exchange.

(15) As regards article 17, it is recommended that all the States uniformly retain the powers granted under this article of the convention in their respective laws.

(16) As regards article 18, the committee recommends that the States uniformly waive the power granted under this article, and act in accordance with the Uniform Law.

(17) As regards article 19, the committee is of the opinion that the States should uniformly adopt the powers contained in this article of the convention.

(18) As regards article 20, the committee believes the States should uniformly waive the powers reserved under this article.

(19) As regards articles 21 and 22, the committee is of the opinion that article 21 should be adopted, namely, that the provisions of articles 2 to 13 and 15 to 20 of the convention concerning bills of exchange shall apply as well to promissory notes; and that the part of the reservation contained in the first paragraph of article 22 be waived.

(20) As regards article 24, it is of opinion that the terms "bill of exchange" and "promissory notes" should be adopted.

C. That the International High Commission should by means of an adequate organization draft a text of the Uniform Law for the Latin American States in accordance with the resolutions recommended relative to the powers reserved under the Hague Convention.

D. That the governments of such States as have not been signatories to the Convention of Montevideo in 1889 be recommended to adopt the principles therein enumerated as to bills of exchange, provisionally accepting them in so far as they are not contrary to the Convention and Uniform Law of The Hague, and until these are adopted.

#### CHECKS.

A memorandum on this subject was submitted by the Uruguayan delegate, Sr. Morató.

The progress toward uniformity in check legislation may be stated as follows:

The Hague Conference of 1912 formulated a preliminary draft as to checks which was submitted for the study of the States concerned, in

order that they might make observations thought proper. This committee is of opinion that the unification of the law on checks should be carried out by agreement between the States which took part in The Hague Conference, and it accordingly proposes the following resolution:

*Resolved*, That the States represented in the International High Commission expedite the study of the preliminary draft of The Hague Conference of 1912, and advance suggestions to serve as a basis for the labors of the next conference.

#### BILLS OF LADING AND WAREHOUSE RECEIPTS.

The United States delegation submitted to the International High Commission a Spanish translation of the uniform law, which has been adopted on this subject by several State jurisdictions of the United States. After a careful examination of this and other antecedents, the committee recommends:

*Resolved*, That legislation relative to bills of lading and warehouse receipts be studied on the basis of the uniform laws on these subjects now in force in the United States of America.

After paying a compliment to the zeal with which the committee had addressed itself to its task, the presiding officer suggested that in view of the differences of opinion as brought out by the report and in view also of the technical and complicated character of the problem, definite action should be postponed at this meeting and the matter referred to the next meeting, either of the Financial Conference or the International High Commission. The discussion which followed has much of value and is given in full.

Sr. JIMÉNEZ DE ARÉCHAGA (Uruguay). The suggestion just advanced by the chair also found expression in the discussion of the draft of report submitted to the second committee by Dr. Ayala, of Paraguay. It was decided that in view of the differences of opinion this action would be advisable and that all the reservations of The Hague Conference should be approved; and that the definition of the juridical theory to govern the conflict of laws arising between the several American countries should be left for a future conference. I second this motion, as I consider it wise and expedient. The divergencies which manifested themselves among the members of the committee are profound, and it was found impossible to adjust them. A majority of the committee accepted wholly the principles established by the uniform law and convention of The Hague of 1912. In conjunction with Dr. Melo, of the Argentine delegation, the conclusions of The Hague Conference were accepted and reservations made as to article 74 of the uniform law and articles 18 and 20 of the convention.

Uruguay, together with all the other American nations, is interested in attaining uniformity in bills of exchange legislation. Its delegation recognizes that it is necessary to have a uniform legal formula, so that all merchants and manufacturers may feel that, at least in the matter of bills of exchange, frontiers are obliterated and that it is their own law which will continue governing commercial documents without regard to the place where they may eventually go. This alone is sufficient to sustain the need for unification. The Uruguayan delegation came to this conference fully convinced that it was indispensable to secure some uniformity. It accordingly submitted a project

of legislation, based on Argentine, Paraguayan, and Uruguayan provisions in agreement with the codes of Latin America. The project, moreover, justifies the belief that the task in hand is feasible because of the identity of origin of commercial law on the American Continent. The Uruguayan delegation has no objection to abandoning this project and in submitting to the resolutions adopted at The Hague in 1912, since these provisions have or will shortly have the adherence of all the American countries. Furthermore, it realizes that uniformity in bills of exchange is needed not only for the American Continent but for the whole world. For these reasons then it accepts the conclusions adopted at The Hague Conference in 1912.

But, Mr. Chairman, when these conclusions were under discussion in the second committee a serious problem arose with regard to article 74 of the Uniform Law and articles 18 and 20 of the Convention.

The Hague Conference establishes a criterion to decide conflict of law questions which is neither essentially that of nationality nor that of the law of domicile, but the mixed theory of "renvoi" in which the law of domicile predominates. The said article 74 holds that conflicts of law in bills of exchange should be decided by the domestic law and that when this domestic law refers to another this latter should prevail. Now, Uruguay has for many years past sustained the law of domicile, or rather the territorial law which in so far as bills of exchange are concerned agrees with the conclusions of the law of domicile; and to this decision the congress which met in Montevideo in 1889 arrived, and its conclusions have been accepted by five American countries. This congress established for private international law the theory of Savigny as modified by the Uruguayan jurist, Dr. Gonzalo Ramírez. The solutions offered to solve conflict of law questions in bills of exchange coincide with the law of domicile prevailing in the United States. It will thus be seen, Mr. Chairman, that the theory enunciated at the congress of private international law, and obtaining in Uruguay and elsewhere, accords with the solution advocated by North American writers. Uruguay can not, Mr. Chairman, repudiate the international theory fixed by the treaties of the congress of Montevideo, and it can not do so, because matters of the gravest public nature are involved in conflicts of international law. These questions are not those relating to the formality of the draft, its indorsement, its collateral guaranties, etc., in which no injury is felt by renouncing some of the legal precepts of domestic legislation. This does not happen in determining the theory on which conflicts of international law should be settled. Uruguay does not admit the law of nationality, established at The Hague Conference, following the tendency which predominates throughout Europe, not only because the law of nationality has no scientific basis—a doctrine sustained rather for political reasons to bring about Italian unity—but because there are reasons of a political character to warrant its rejection.

Uruguay, no less than Argentina, is a country of large immigration; and if these countries where immigration is constant and where the inhabitants represent distinct origins were to apply the law of nationality, veritable chaos would ensue—the very same legal facts would have to be submitted to different systems of law. It would be

impossible at any moment to determine whether any legal act whatever were valid or not.

For these reasons, the Montevideo Congress rejected the law of nationality and laid down as a fundamental principle the territorial law, which, as I said before, coincided with that of domicile, in bills of exchange at least.

Two years ago the International Congress of American Jurists met at Rio de Janeiro for the purpose of codifying public and private international law. One of the objects of this conference was to seek some formula which should satisfy Chile and Brazil, so that these two countries might ratify the Montevideo treaties. It is a well-known fact that the countries I have just mentioned rejected the treaties of the Montevideo Congress of 1889; Brazil, because it upholds the law of nationality, and Chile because it holds that the principles of its domestic legislation are opposed to the solution agreed upon at that meeting. With this end in view the International Congress of Rio de Janeiro named a subcommittee to meet at Montevideo under the chairmanship of the distinguished Paraguayan jurist, Cecilio Báez. This subcommittee worked out a compromise which might easily be adopted at the present time, and which would be a satisfactory solution for all the American countries, both for those that uphold the law of domicile as interpreted by the territorial law (that is to say, the signatory powers of the Montevideo Congress of 1889), as well as for those that advocate the law of nationality. By the formula submitted to that subcommittee by Dr. José Pedro Varela, professor of private international law at the University at Paraguay, the law of domicile would be applied as a general principle, and when this last-named law indicated another, the indicated jurisdiction would exist. For example, if a conflict were to arise as to the capacity of the drawer, domiciled in Uruguay, the case would be determined by the law of domicile; in this case, the law of Uruguay. If the same case were to arise in Brazil, the Brazilian law demands that the local law be applied, and if the case involved an Uruguayan or Argentine citizen, the law of these countries would be respectively applied. This formula is not really anything more than the recognition of the legislation in force in the settlement of the conflict of law questions with Chile and Brazil and with such other countries as sustain the law of nationality. But even this proposal was rejected by the second committee, and the difference subsists. At the suggestion, therefore, of certain delegates, chiefly those from Salvador and Uruguay, I proposed to the committee that its report recommend the adoption by the International High Commission of the uniform law of The Hague, with the exception of article 74 and of articles 18 and 20 of the convention; and that action on these articles should be left to a future conference, where a solution satisfactory to all the American countries might be worked out.

I should call your attention to the conclusions of The Hague Conference: That these legal texts contain provisions of two distinct orders, provisions of domestic legislation and provisions of international law. I can see no good reason why the American nations are bound to admit in their entirety the conclusions of The Hague Conference. The American countries that signed The Hague Convention will be bound by the provisions of domestic law approved by that

body, but this is not the case in my humble judgment with regard to article 74, which establishes a principle of private international law. I accordingly second the motion of the chair with this amendment: That the conclusions of The Hague Convention be ratified with the exception of article 74 of the Uniform Law and articles 18 and 20 of the Convention. These provisions should be left for consideration by a second conference.

The Salvadorean delegate, Dr. Lima, then declared that while Salvador had no reason to decline to approve article 74 of the rules, he would advise postponement of action to a future meeting.

Sr. INGLEZ DE SOUZA (Brazil). The differences that arose among the members of the second committee charged with the study of the topics of bills of exchange and negotiable paper were confined to questions of private international law, arising from the action taken on article 74 of The Hague Conference of 1912 and on articles 18 and 20 of the corresponding convention. In so far as relates to the formalities of a bill of exchange, to its effects or its force, the second committee fully agrees to a unification of the law governing such paper in the American Republics, either based on a complete acceptance of the Uniform Law of The Hague or with such reservations as the convention permits. Such action accordingly represents a distinct step forward in the task of unifying the law on bills of exchange, especially as not all of the American nations were represented at The Hague.

Under these conditions the approval of the motion submitted by Dr. Jiménez de Aréchaga, of Uruguay, has to my mind no disadvantages and certainly substantial advantages.

If an agreement is not possible on the conflict of law question raised by article 74 of the Uniform Law, no good objection can be advanced—and prudence advocates the step—to the approval of those conclusions unanimously accepted by the committee, leaving for a later conference the solution of the question on which no agreement has been reached.

Not the most skeptical can doubt that most advantageous results will follow in the trade relations of America from the adoption of a uniform standard in this matter by the several interested countries. These results will be the consequence of the action taken by the American nations on the basis of the resolutions adopted by the International High Commission.

Mr. UNTERMYER\* (United States). Mr. President, I am laboring under two embarrassments in addressing you on this subject. First, I do not speak your beautiful tongue, and so many of the delegates may not understand the point of view I want to indicate. My second difficulty arises from the fact that the delegates of the United States of America expressed at The Hague views which have been repeated here to the effect that the United States can not become a party to the uniform law as prepared at The Hague, for the reason that we

\* A memorandum on this topic was prepared by Mr. Untermyer and is to be found in the English version of the final act prepared by the central executive council.



have already a uniform law in several of the States of the United States. This law was formulated some years ago, and it has now become the law in 35 of the 48 States. Thus, if any change were made in our so-called uniform law on negotiable instruments it would have to be considered by all of the 35 States that as a result of 25 years' agitation and education have now adopted the uniform law. Having regard to this situation and recognizing our predicament, the members of the second committee very kindly invited the United States delegates to take part in their deliberations, because they realized the advantage and importance of bringing the two systems as closely together as possible. At present we have a system that is now nearly uniform throughout the more important States of the United States, and is in time expected to be entirely uniform throughout our Republic. The purpose of The Hague Conference and of the uniform law formulated there was to secure two systems of law covering bills of exchange instead of this confusing variety that has so long existed. After careful deliberation, The Hague Conference found that it was necessary to include a number of reserves and concessions which might permit departure from the uniform law in each of the 30 or 40 countries represented, whenever local custom or tradition seemed to require it. Accordingly, the conference formulated the convention to control these cases. To some slight extent the uniform law was thereby robbed of its uniformity in order to allow for these various reservations.

When this second committee began its work it determined not to interfere with the uniform law except where the States were unanimously in favor of one or another reserve, but it was determined to see whether or not the American Republics could not agree upon some way of disposing of these reserves. Our anxiety to achieve uniformity led us to strive for a uniform method of dealing with those articles of the convention that contain the reservations, in order that one country would not have one method of determining its attitude toward an article of the convention containing a reservation while another country had another way of determining it. The idea was to give us two systems instead of 30 or more systems. Accordingly, this committee unanimously agreed that the uniform law as adopted at The Hague should be the basis of its discussions, and that for the purpose of securing unity in the system it would confine itself to an attempt to get an agreement among the States here represented upon the reservations contained in the convention, and it is to that end that we have applied ourselves. There is no difference of opinion among the members of this committee of 12 or 14 men upon most of the important questions reserved by the terms of the convention as to which the different States are now at variance. In this report we have agreed upon a uniform rule, which, if translated into law, will do away with all these differing and conflicting reservations. There is only one subject on which the committee did not agree. Of the 30 articles of the convention they agreed upon 26. The other four deal with the question of conflict of law, to which the distinguished delegate from Uruguay has adverted. In view of the important points upon which all the members of the committee are agreed in the direction of uniformity, it would seem to be of great value to have this conference adopt the report, thus recommending to the next conference to advance in the direction of securing uniformity of

law relative to bills of exchange, not only on the basis of the positive recommendation already before you, but also by a clear statement of the difficult questions which have to be settled and to which that next conference might properly address itself.

I second the motion of the gentleman from Uruguay on the subject of uniformity of law to the effect that we reserve judgment on the questions involved in article 74, relative to the conflict of laws, and that there be no recommendation upon that point. It seems, however, that we will accomplish great good by recommending an agreement upon the articles of the convention as to which no difference of opinion has developed. I suggest, therefore, that instead of throwing this subject over indefinitely, we deal with that part of it about which we are in perfect accord.

Sr. SALINAS (Chile): Two different suggestions have been made. The presiding officer, in view of the fact that differences of opinion have arisen in the committee report, has proposed the postponement of a decision on the subject until the topic can be examined anew by another conference. Dr. Jiménez de Aréchaga, on the other hand, has suggested an amendment which consists in recommending the acceptance of the Hague Convention of 1912, with a reservation as to article 74, which fixes as a general principle the law of nationality and for certain cases, that of domicile, proposes that instead of this decision the provisions of the Uruguayan code should be accepted, which contains the diametrically opposite theory, namely, the law of domicile as a general basis and for certain cases the law of nationality. On behalf of the Chilean delegation, I must say that this last proposal is unacceptable, because the Government of Chile was represented at the The Hague Conference of 1912 and accepted the project of uniform law as there drafted; and because, furthermore, any modification introduced into this project of uniform law breaks the common agreement which is an essential requisite of uniformity. It would no longer be a uniform law.

In the face of this difficulty I would request the distinguished representatives of the Governments that have not accepted the principles of nationality and of domicile as set forth in the Hague project to make a special effort to come to some agreement as to article 74. This article in truth establishes the alternative application of one or the other principle, so that the law of nationality or that of domicile may be established in each special case, as the facts might warrant; and in this way all difficulties arising from divergent legislation would be obviated. But if this is not to be accepted, if the divergence is to remain, it would, I hold, be far preferable to accept the suggestion of the Chair so as to afford time for a reconsideration of the matter, which might lead to a harmonious result.

Sr. Jiménez de Aréchaga here restated his position, because of an apparent misunderstanding of his views:

Uruguay has adopted a formula of compromise and conciliation, which was submitted to the committee. But I did not propose to the whole commission the adoption of this conciliatory formula. What I did propose was merely an amendment to the chairman's suggestion. This amendment is to the effect that we should approve the uniform law of The Hague with the exception of article 74 and the corresponding convention excepting only articles 18 and 20, leaving these points to be taken up by a subsequent conference. I

advance the suggestion because the solution to which The Hague Conference arrived contains legal precepts of two distinct natures—some of internal legislation and others of international law. As to the former, complete harmony exists among the delegates and we might easily arrive at uniformity in so far as this aspect is concerned with regard to the act of drawing, indorsement, and other formalities relating to bills of exchange. The only difficulty lies in agreeing upon the international principle. Why not leave this matter to be settled by a future conference? Any conference on bills of exchange must necessarily be a prolonged one. Such a gathering would have to consider a multiplicity of topics, and if we leave the whole consideration of the solution proposed at The Hague Conference pending it would take not less than 20 days of continuous sessions before we arrived at an agreement, provided, of course, it is done in the careful and conscientious manner which such a subject necessarily requires. If, on the other hand, we only leave the one question on which disagreement has arisen for future action a decision might be reached in two or three days. With this explanation I wish to support the proposal of the Chair, subject to my original amendment, namely, the approval of all the conclusions of The Hague Conference, with the exception of article 74 of the uniform law and articles 18 and 20 of the convention.

Mr. Untermeyer seconded the amendment of Dr. Aréchaga.

Sr. Bustamante wished to go on record as indorsing the amendment of Dr. Jiménez de Aréchaga, repeating that all the delegations were in agreement during the committee meetings in so far as the matters of domestic law were concerned and that the only conflict arose from the matter of public law; that is to say, article 74 of the Uniform Law and articles 18 and 20 of the convention. It would indeed be a regrettable circumstance that the substantial work already done should be lost and the whole matter referred to a subsequent congress.

Sr. CALVO (Bolivia). It is my understanding, Mr. Chairman, that the divergence of opinion as to article 74 is not as serious as at first sight may appear. This article apparently sustains the principle of nationality, but a careful analysis leads to the deduction that the principle advocated is not really that of domicile, but that of mere residence. This is clearly inferable from the last paragraph of the article in question. The scruples expressed here as to the effect that such a decision might cause a variance with juridical principles established in several countries have no real foundation. If article 74 is accepted in its entirety, The Hague Convention is really abandoned and instead of attaining that uniformity of law to which the several American States aspire we shall really be drifting away from it and engaging in new discussions which will open a larger breach with the European legislations, all of which now hinge around The Hague agreement. Furthermore, I should say that after a lengthy debate the second committee accepted article 74, and that the only reservations made were those of the Argentine delegate, Dr. Melo, and of the Uruguayan delegate, Dr. Jiménez de Aréchaga, and even these reservations were not sustained in their entirety even by these delegates who agreed that article 74 did not wholly overcome the difficulty. For these and other reasons a choice between article 74 of the Law and articles 18 and 20 of the Convention had to be made. Then we found article 18 drawn in such obscure and deficient terminology that it seemed prefer-

able to adopt article 74. A rejection of this article would have given rise to serious difficulties and would have brought about veritable chaos. Every difficulty was disposed of by article 74, which would, moreover, assure the performance of bills of exchange. For this reason the law of the place where the obligation had been contracted was applied, and in this way creditors were protected in their rights and the collection of the bill guaranteed.

Sr. AYALA (Paraguay). I shall try to be very brief, Mr. Chairman, as the matter has been exhaustively treated by the speakers who have preceded me. I wish to endeavor to show what effects in my judgment would result from a decision such as that just advanced, namely, the adoption of the Uniform Law approved at The Hague, with the exception of article 74. As has already been said, it would mean the separation of the American countries from that harmony which The Hague Conference sought to create. But it is my belief that its results would be far more serious since the Uniform Law sanctioned at The Hague is about to be put into force by the signatory States. The time is ripe, therefore, for the countries, parties to this convention, to strain every effort to have their legislatures adopt this uniform law. This is indeed the tacit engagement into which all the nations which participated at The Hague Conference have entered.

Now, what would be the situation of those countries signing The Hague Convention if this meeting of the International High Commission should agree to postpone the consideration of one of the articles of this Uniform Law? Such a postponement would expose the signatory nations to a nonratification of The Hague Convention. Besides, the issue as to the principles which should govern in this conflict of law difference is a familiar one. I, for one, believe its reconsideration by any future conference wholly futile; each country in the last analysis wants the adoption of the principle which is consecrated in its legislation. Those countries that sustain the law of nationality want this principle recognized; those upholding the law of domicile demand its acceptance. And so we would never reach an agreement.

Now, I want to emphasize this fact: The Hague Convention represents a nucleus of European nations of enormous financial resources, of tremendous commercial power throughout the world; opposed to it is a group of American nations, not all the countries of South America, it is true, but many of them, where the law of nationality governs. Now, is it reasonable to imagine that at any future conference the South American States would accept the law of domicile, however logical it may be for these countries which already have this theory embodied in their codes? Frankly, gentlemen, I believe it is not. The only road, then, open to us, if we wish to realize the great purposes of The Hague Conference—that is to say, secure uniformity in all the systems of law governing bills of exchange (excepting only the common law of Great Britain and the United States)—is to forego our juridical principles, however dear they be to us. We must confine ourselves to determining whether the formula adopted by article 74 of the Uniform Law safeguards the interests of the countries which do not have the same legislative system on this point. I believe I am right when I say that there has been a consensus of opinion that article 74, even though drafted in somewhat obscure

language, safeguards the interests of the countries following the law of domicile.

Furthermore, the Uruguayan delegate, Dr. Jiménez de Aréchaga, has accepted this formula, only that instead of putting first the law of nationality and then the law of domicile he has proposed that the law of domicile should precede the law of nationality. But the compromise is the same; it is the same combination of the two systems. Now, it has been said and proved that the law of domicile is preferable as being more logical than the law of nationality and far more suitable for countries with a large immigration, as is the case with a majority of the South American States. But, gentlemen, this does not hold true for all the countries that have subscribed The Hague Convention. Let us dissociate ourselves for a moment from the great interests we have in hand. This gathering should forget for a moment that it is a body discussing merely continental matters. It should realize that it is dealing with questions of interest to the whole commercial world, and only if we keep this thought ever before us can we reach the conclusion to which a long line of conferences have aspired and whose successful culmination was reached at The Hague conferences of 1910 and 1912.

And just one more thought. This movement centering around bills of exchange is not confined to this class of paper. There already has been a conference on checks in 1912, at which a preliminary draft was adopted, which draft has been submitted to the signatory powers, so that they might make their observations, as in the case of bills of exchange. Later, when the moment seems propitious, another gathering with this material as a basis may adopt a uniform law on checks. Now, in this uniform check law, the law of nationality will once more come under discussion; for you all know, gentlemen, that this is the law of the great European nations which, if they are not numerically a majority, have unquestionably more weight as a group. I said just now that there was a movement of opinion. But it is more than a movement of opinion. It is one of the vital ideas centering around legislative uniformity. The conference of 1912 proposed to crown its work by establishing a court for the interpretation of all questions dealing with bills of exchange, for in order that legislation may be uniform it must be applied uniformly. It is essential that there should grow up around this uniform legislation a uniform jurisprudence, as uniform as the legislation itself. But how can there be uniform legislation if there is no court to pass on all the cases submitted for its consideration?

This movement, which had already begun and was unfortunately interrupted by the fateful events transpiring in the Old World, this movement of opinion and ideas should, I plead, be stimulated by the American countries, for we are more favorably placed for supporting and upholding every noble and humanitarian principle.

For these reasons, then, I hold that it would be quite useless to approve the Uniform Law and to postpone consideration of article 74 because we would reach no practical result thereby. And, again, if the countries that have adopted the law of domicile insist, as they have so far insisted, on their reservations, we would be no farther along then than we are to-day. If we are to adhere to The Hague Convention, we must forego the law of domicile. This is the naked truth of which we must convince ourselves. This issue is, to sustain

our principles, our theory of the law of domicile and break away from the group of nations adhering to The Hague Convention, or to join this group at the sacrifice of our theory. This, gentlemen, is the only issue before us.

Sr. CALOGERAS (Brazil). We should not forget that a question such as this will never be settled by a majority or minority vote. Before we can have uniformity of decisions emanating from this assembly all the delegations must frankly accept them. I represent, gentlemen, a country that took part in the deliberations of The Hague, so I do not believe myself authorized to sustain my opinion as the final decision of my Government in the premises. The delegations are divided into two groups, those which represent the countries adhering to the conclusions of The Hague Conference, among which is Brazil, and those not signatory to the convention; but, in order that the other countries may successfully draw near the common ideal, the differences must be reduced to a minimum, and the point on which basic differences exist must be left for future consideration. Under these conditions it is my modest opinion that the proposal of the Uruguayan delegation, supported by those of Brazil and the United States, is inspired in the same purpose, namely, the approval of those provisions on which there is a consensus of opinion and the postponement of those articles for future consideration where there is no such agreement.

Sr. ALDAO (Argentina). The Argentine delegation has arrived at the conclusion that it is advantageous to approve the conclusions of The Hague as far as the opinion of the several delegations has crystallized and to postpone for a subsequent occasion the discussion of article 74 of the Uniform Law and articles 18 and 20 of the Convention. I propose, therefore, that the question be put to a vote.

Dr. Jiménez de Aréchaga was then requested to submit his motion in writing. It read as follows:

The study of article 74 of the Uniform Law of The Hague and articles 18 and 20 of the Convention is referred to a subsequent conference.

At the suggestion of Mr. Untermeyer the following amendment to the amendment was unanimously approved:

Without expressing any opinion on the matter.

With these amendments the motion was unanimously adopted.

The report of the second committee was based on the following memoranda.

A brief historical sketch of the various international gatherings that have dealt with the subject of bills of exchange leading down to The Hague Conferences of 1910 and 1912 was presented in the opening paragraphs of a memorandum submitted by Dr. Melo, on behalf of the Argentine section. In view of the fact that the 1912 convention was subscribed by the leading nations of the world, with the exception of the English-speaking countries where the common law prevails, Dr. Melo urged that The Hague Convention should serve as the basis for committee discussions in view not only of the number of countries familiar with The Hague Rules but also of the common juridical system on which the legislation of the Latin American nations is based.

In the matter of bills of lading, the subject has not yet advanced to that degree of uniformity attained in bills of exchange. He advocates that the resolutions adopted at the Conference of Paris of October, 1911, and the New York-Antwerp-Liverpool Rules of 1911 and those of Antwerp of 1913 be adopted as a starting point.

After showing that Great Britain had already attained a certain degree of uniformity among her many colonies in the matter of bills of exchange—for which reason the British delegate at The Hague Conference refrained from signing the convention—the Brazilian memorandum contains the following significant paragraph: "In order that Great Britain may beneficially adhere to the International Union in the matter of bills of exchange, it is necessary in the first place that she bring about the reform of the laws in force in the different parts of the Empire, in accordance with the ideas prevailing at The Hague Conference. The situation in the United States is identical."

With regard to bills of lading, it was recognized that the points of divergency are so fundamental that uniformity could not be attained until some agreement had been reached on them by the leading nations of the world. For the unification of American practice, the memorandum recommends that, to the generally accepted declarations, it would be advantageous to add: (1) Statement of contents, given in the metric system; (2) obligatory specification of freight rates paid, in detail.

The Nicaraguan memorandum traces the development of negotiable instruments legislation in that country from the adoption, in 1830, of the civil code, based on the Chilean code, down to the law of 1914. The draft of this code was prepared by a distinguished jurist, Dr. Modesto Barrios, who drew his inspiration mainly from the codes of the Argentine Republic, Italy, and Portugal. This legislation marks a distinct step forward in Nicaraguan commercial transactions, and brings this republic abreast with the most recent legislation on this subject.

On behalf of the Uruguayan delegation, Dr. Jiménez de Aréchaga submitted a scholarly memorandum which goes into the matter thoroughly. He points out that the similar ethnical characteristics of the Latin American races no less than the spirit of warm cordiality and the absence of commercial rivalry and distrust are most favorable factors in any attempt to render uniform the laws on this important subject. Taking the project adopted at the Montevideo Congress of 1889 as a starting point, he has examined exhaustively the codes of nearly all the American nations and has formulated a project in which almost all differences are harmonized, not only with the Montevideo Congress but with The Hague Conference of 1912. He points out that a distinct advance in this direction has already been made by the acceptance of the principles embodied in the Montevideo Congress by the Republics of Argentine, Bolivia, Paraguay, Peru, and Uruguay.

Another memorandum was submitted on behalf of the Uruguayan delegation by Dr. Morató, dealing exclusively with the subject of checks. The check is examined from the point of view of Uruguayan legislation where, the author points out, it circulates under conditions practically identical with those prevailing in England. The preliminary draft adopted at The Hague Conference is also search-

ingly examined. The lengthy memorandum submitted on behalf of the Chamber of Commerce of Uruguay in reply to the Hague questionnaire is given in extenso.

Ecuador, says the memorandum submitted by the delegation of this country, has legislation on negotiable instruments in consonance with The Hague Convention of 1912, with the exception of certain nonessential differences. Among these the memorandum cites the omission of the term "bill of exchange" on the document itself; prohibition of indorsements in blank, etc. The general tendency, in so far as bills of lading are concerned, is that the bearer should be liable for merchandise which he alleges in the respective bill of lading to have received, whether these goods were, as a matter of fact, received or not; that the bill of lading be so issued as to give the holder full legal protection; and lastly, that the document should be readily negotiable.

The legislation in Haiti is based on French law, but the delegation from this country manifested its readiness to accept the United States Federal project known as the Pomerene bill as the basis for discussion by the commission.

Salvador is a signatory to The Hague Convention of 1912 and manifests entire satisfaction with the results of this legislation.

The present commercial code of Venezuela, adopted April 19, 1904, was based on the Italian and German theories of jurisprudence. The memorandum exhaustively compares the present code with The Hague Conventions, which are indorsed as suitable for general adoption by the commission. The negotiability of the bill of lading is unquestionably the most important aspect of this class of paper. It will, the memorandum believes, be carefully studied by the commission with a view to establishing rules to prevent fraud that might be committed by bills of lading covering fictitious shipments. The spirit of the Venezuelan law is that the captain is liable to the holder for statements appearing under his signature in the bill, without, however, prejudicing any action that may also be brought against the shipper.

## V.

The Brazilian delegate, Dr. Inglez de Souza, here submitted the following motion:

*Resolved*, That the International High Commission for the purpose of encouraging and facilitating the ratification of and adhesion to the Uniform Law and Convention of The Hague of 1912, recommend that each delegation should within 60 days after the adjournment of the conference submit detailed information in writing to the secretary-general of the conference on (1) the present state of the movement toward the adoption of these treaties in each country; (2) the reasons for failure to take action looking toward ratification; (3) the hope of obtaining such ratification; (4) the time necessary for action; (5) what steps, if any, should be taken by the International High Commission toward the realization of these ends.

*Resolved further*, That Drs. Ayala, Melo, and Villazón be constituted as a committee to prepare a Spanish translation of the said convention on the Uniform Law of 1912, which translation shall be considered official and distributed at an early date among the delegates.

Dr. Grisanti (Venezuela) suggested that the term be increased to four months, to which Dr. Inglez de Souza agreed. As thus amended the motion was unanimously carried.



## VI.

The report of the fifth committee on patent, trade-mark, and copyright legislation was here read as follows:

SIR: For the reasons given in the attached report of the subcommittee on patents, trade-marks, and copyrights, the fifth committee, of which I have the honor to be chairman, has decided to submit to the International High Commission the following conclusions, with the recommendation that they be adopted:

1. *Resolved*, That the conventions of Buenos Aires on patents, trade-marks, and copyrights be ratified;\*

2. That a recommendation be made through the Pan American Union to the Fifth International Conference of American States to be held at Santiago de Chile that attention be given to the concrete declaratory modifications contained in the accompanying record, proposed by the delegates of Chile, Cuba, and the United States, regarding the conventions on trade-marks and copyrights. This recommendation is to be understood in the sense that the said modifications are merely by way of clarification;

3. That, until such time as the Buenos Aires conventions shall have been ratified, the conclusions of the Argentine report relating to foreign trade-marks and to the renewal of the registration of patents and trade-marks in the case of countries at war be urged upon the attention of the legislative bodies of the several States;

4. That reports be made as to the causes of the delay in ratifying the Buenos Aires conventions, in accordance with the suggestion of the United States delegate, as indicated in the attached subcommittee report.

I have the honor to be, sir, etc.,

DANIEL MUÑOZ,  
*Chairman pro tem.*

#### REPORT OF THE SUBCOMMITTEE ON PATENTS, TRADE-MARKS, AND COPYRIGHTS.

In Buenos Aires, on the 10th day of April, 1916, the subcommittee of the fifth committee met under the chairmanship of his excellency, the Envoy Extraordinary and Minister Plenipotentiary of Uruguay, Dr. Daniel Muñoz, and forthwith took up the study of the fifth topic of the program, namely, patents, trade-marks, and copyrights. The following members of the committee were present: Messrs. Samuel Untermyer, Duncan U. Fletcher, Carlos Calvo, Eliodoro Villazón, Francisco Encina, Jorge Matte, Luis Piera, Guillermo Wilson, Daniel Muñoz, Juan de Dios García Kohly, Benjamín Giberga, Rafael Vázconez Gómez, Gualberto Cardús Huerta, Pedro Jorba, Manuel E. Bonnemaison, Francisco Lima, Alfredo Echagüe, Leopoldo Melo, and Eleodoro Lobos. The United States delegate, Mr. Samuel Untermyer, urged the importance of the early ratification of the convention of the Fourth International Conference of American States by such Governments as may not have already ratified the same.

He therefore recommended that in order to expedite this ratification the chairman of each delegation be requested to obtain from the proper authorities of his country a report as to the reasons for delay in securing the said ratification and as to the steps advisable to bring about this result. The report in question should be forwarded within four months after the close of the meeting of the International

\* These treaties have been ratified (April, 1917, thus bringing up to date reference on page 21 of Report of United States Section, H. Doc. 1744, 64th Cong., 2d sess.) by 12 countries, in the case of patents and trade-marks, and by 11 countries, in that of copyrights.

High Commission to the chairman of the Argentine section, with the request that it be by him transmitted to the several other sections.

He further proposed, with a view to clarifying the Buenos Aires Convention on trade-marks, the following declarations:

(a) That Article III be amended to read as follows:

The deposit of a trade-mark in one of the signatory States produces in favor of the depositor a right of priority for the period of six months, so as to enable the depositor to make the deposit in the other States. Therefore, the deposit made subsequently but prior to the expiration of this period can be annulled by acts performed in the interval, especially by another deposit, by publication, or by the use of the mark. *Provided, however,* That where the right of the depositor of such trade-mark is challenged by suit instituted in any judicial tribunal, the issues may be litigated and determined, and all appropriate remedies may be administered within said interval of six months.

(b) That Article IX of the Convention be amended by inserting at the end of each of the subsections (a), (b), and (c) thereof the word "or."

In support of these declaratory modifications, Mr. Untermeyer added that the purpose of the first amendment is to make it plain that the right to contest such registration is not suspended during these six months as against the person claiming to be the rightful owner, and that the latter may invoke and secure his remedies in the courts of the country of registration during this interval. The proposed amendment to Article IX is intended to avoid the necessity for the petitioner to prove each of all the four separate conditions set forth in subsections (a), (b), (c), and (d).

The Chilean delegate, Dr. Encina, in turn expressed his opinion that the Buenos Aires convention was susceptible of declaratory modifications, which, in order to avoid premature discussion, he would submit in a separate report, so that the Fifth International Conference of American States, soon to meet in Santiago de Chile, might take them under consideration.

The delegate from Cuba held that inasmuch as, for the purposes of any claim founded on the false representation as to the origin of a product, the State as to which the false representation is made is the chief interested party, he is of opinion that it is advisable that the second paragraph of Article VIII of the aforementioned Buenos Aires convention on trade-marks be amended to include among the list of interested parties empowered to prosecute the offense the consular or other agents of the country falsely represented to be the country of origin.

The Argentine delegate, Dr. Lobos, then stated that, as explained in his printed report, the way to attain uniformity and perfection of the legislation under discussion was to secure the ratification of the Buenos Aires convention. This might be done, he said, before the meeting of the Fifth International Conference of American States without prejudice to the proposals submitted by the United States delegation to the consideration of the conference through the machinery established in the resolution of August 27, 1910, on the reorganization of the Union of American Republics. This resolution assigned to the Pan American Union the duty of selecting, six months before the meeting of the conference at Santiago, the topics to be discussed thereat. Since the program for this conference has been completed under date of December 3, 1913, without the inclu-

sion of the topics of patents, trade-marks, and copyrights, there was danger of postponing once more the ratification of the Buenos Aires convention through the introduction of these proposed modifications, even though they were, as stated, merely by way of clarification.

Accordingly, in view of this fact, the Argentine delegation had proposed that the legislative bodies of the several States be requested to fix a time limit in which the annulment of registry may be sought on the ground of prejudice to the priority of foreign trade-marks inscribed in the country of origin; such procedure to involve automatically the reciprocal exclusion of common names, the entertainment of the suit, and the proof of bad faith in the registry which is the subject of the suit. In spite of this, however, seeing that it is his duty to facilitate the suggestions advanced by the delegates of the United States and Chile, without it being thereby understood that the Argentine delegates share the view of their distinguished colleagues from these nations as to the extent and result of the said declaratory modifications, the Argentine delegate will sign the report of the committee by which the modifications are left to the Fifth International Conference of American States to be held in Santiago de Chile.

The delegate from the United States insisted that the suggestions he had made did not involve modifications of the convention, nor were they contrary to its terms, but were merely for the purpose of clarifying the same.

Turning next to the Buenos Aires Convention on Copyrights, Mr. Undermyer proposed:

1. That there be added to article 3 of the convention the following:

*Provided, That no owner of a copyright shall be entitled to enforce any claim for infringement of his copyrighted work in a signatory republic if the alleged infringement occurs before the copyright in question has been filed in the copyright office of such signatory republic by the copyright office of the State in which the copyright was originally granted. To that end the copyright office of each signatory State shall upon the ratification of this convention forthwith forward to the copyright office of each of the other signatory States a complete list of copyright registrations effected during the next preceding month.*

This amendment, Mr. Undermyer added, is designed to remedy the present jeopardous condition whereby a person may innocently purchase a copyrighted work that has been registered in a signatory State other than the one in which he resides; it would further avoid the great delay attendant upon registry.

To this Dr. Lobos replied that the proposed amendment completely changed the system established by the Buenos Aires Convention of 1910 which, in conformity with the copyright treaty of Berlin of 1908, provides in article 3 as follows:

The acknowledgment of a copyright obtained in one State, in conformity with its laws, shall produce its effects of full right in all the other States, without the necessity of complying with any other formality, provided always there shall appear in the work a statement that indicates the reservation of the property right.

He added that in support of his views, and to save time, he begged to refer the committee to his exposition of the subject in the Pan American Conference of Buenos Aires, and especially to the address of the Chilean delegate, Dr. Alejandro Álvarez.

The laws of the Argentine Republic allow of the registration of a copyright, until such time as the convention is ratified, by way of

securing and publishing this right for domestic purposes. He accordingly, without expressing any views on the subject, sees no objection to the inclusion of this topic in the recommendations to be forwarded to the Pan American Union at Washington.

After this exchange of views the subcommittee decided to proceed to the drafting of the report to be submitted to the International High Commission embodying its conclusions, the said report to be signed by the chairman of the fifth committee and such members thereof as might care to do so.

BUENOS AIRES, *April 10, 1916.*

DANIEL MUÑOZ, *Chairman, Subcommittee.*

SAMUEL UNTERMYER.

E. LOBOS.

M. ELÍAS BONNEMAISON.

CARLOS CALVO.

F. A. ENCINA.

JUAN D. GARCÍA KOHLY.,

BENJAMÍN GIBERGA.

GUILLERMO WILSON.

LUIS PIERA.

PEDRO JORBA.

The report as read was ratified by all the delegations present with the exception of that of Venezuela.

The memorandum submitted by Dr. Lobos of the Argentine section traced the historical development of copyright legislation through the several Pan American conferences. He showed how the Fourth International Conference of American States (1910), at the suggestion of the Chilean delegation, reformed the convention entered into at the preceding conference. By the Buenos Aires Convention it was sought to assure equal rights in all signatory states to the applicants for copyright in any one of them. The memorandum advocated the early ratification of the conventions on patents, trade-marks and copyrights by all the signatory powers. Hope was held out for the early ratification by the Argentine House of Representatives of these conventions, which had already received the approval of the Senate.

In this connection the Brazilian memorandum contains the following recommendations: (1) That the protection of copyrights should be constructed on a more liberal basis; (2) That the acknowledgment of the rights of an author should not be made dependent upon the formalities of deposit or registration; (3) That failure to deposit or register the first edition of a work should not operate as a hindrance against the deposit or registration of subsequent editions; (4) That protection should be afforded to authors of unpublished works.

The copyright law of Costa Rica, says the memorandum submitted by the delegation from this country, dates back to 1896, but the Buenos Aires convention of August 11, 1910, on this subject has been approved and ratified by Costa Rica by decree of August 7, 1915. Immediately after the exchange of ratifications this convention will substitute the 1896 law.

Efforts are being made by all the nations of the American Continent to ratify the various conventions signed at Buenos Aires at the Fourth International Conference of American States. In keeping with this, Costa Rica, by a decree of August 6, 1915, ratified the convention on trade-marks and its Department of Foreign Affairs is at present engaged in making the exchanges called for by clause 18 of the said convention.

The text of the law and of the regulations governing trade-marks are given in full, as well as a copy of the Buenos Aires Convention on the subject (p. 112, S. Doc. 744, 61st Cong., 3d sess.).

Among the articles worthy of note in the Costa Rican law is that providing that the rights to a trade-mark may be acquired only for a period of 15 years. The right of indefinite renewal is, however, given, provided this be done every 10 years. For this renewal it shall be sufficient for the owner to make a statement in writing to the effect within 30 days after the right has lapsed. After the expiration of this 30-day period the right will be forfeited.

The regulations provide for the establishment of a register office in the commercial bureau of the department of foreign affairs.

Various details covering the requisites for inscription, transfer of rights, etc., are then given.

The following fees are charged:

For every record of inscription, transfer, cancellation or amendment, etc.....	¢7 00
For each certification.....	¢2 00

Ratification of the Buenos Aires Convention is also advocated in a brief memorandum of the Uruguayan delegation.

A detailed analysis of the Colombian law on trade-marks enacted in 1914 was presented by the delegate from this country. This law gives the exclusive right to the use of all trade-marks for a period of 20 years with the right of renewal. Details providing for registration, limitation of names, etc., are fully set forth. A term of from 10 to 50 years is granted any native or foreigner in which to enjoy the exclusive right to any patent duly registered. On the expiration of the term the manufacture, sale, or use of the invention or improvement is free. In July, 1911, representatives from Bolivia, Ecuador, Peru, Venezuela, and Colombia met in Caracas and signed an agreement by which patent rights granted in any one of the signatory countries should be extended to all the others, provided that within a term of two years the inventor register his patent according to the formalities prescribed by the respective country.

Ecuador has ratified the Buenos Aires Convention of 1910, on trade marks and copyrights. The legislation on patents is somewhat antiquated, although there is a bill pending incorporating the substantial elements of the Buenos Aires Convention on this subject.

The Venezuelan memorandum states that the law on trade-marks dates back to 1877 and is hence not in harmony with the most advanced ideas on the subject. The right of registration is conceded only to individuals and corporations domiciled in Venezuela; in the case of foreigners the rule of reciprocity is applied. The patent law bears date of June, 1882, and grants exclusive privileges for terms of 5, 10, or 15 years. In the matter of copyrights, the law is dated June, 1894. Venezuela, together with Mexico, Guatemala, and Nicaragua are the only countries recognizing copyright privileges

ad perpetuum. But the delegation recommends the substitution of this principle for that embodied in the Italian law which grants the right to the author and his heirs for a term of 40 years, on the expiration of which a second term of 40 years is granted during which the works may be reproduced on the payment of a 5 per cent royalty

## VII.

The seventh committee reported favorably the following project submitted by the Uruguayan delegation:

*Resolved*, That it is the sense of the International High Commission that a conference be held to consider the means of making uniform the admiralty law of the American States.

It was unanimously agreed to.

## VIII.

The sixth committee here submitted a favorable report on the proposal of Dr. Terra of the Uruguayan delegation on an American customs agreement. The text of the resolution is as follows:

*Resolved*, That in view of the important advantages to be derived from the speedy adoption of an American customs agreement to correct the industrial and fiscal situation created in each country by certain consequences of the European war, this topic be included in the program of the next Pan American Financial Conference. The several sections of the International High Commission shall prepare the necessary material.

In support of his resolution Dr. Terra spoke as follows:

This Pan American customs agreement in defense of our industries stands out as the first and most logical consequence of the policy of continental economic union.

All the countries of Latin America have adopted for almost half a century the principle of protection against the romanticism of free trade so much in vogue around the year 1865. They have by this means been able to develop within their frontiers a diversity of manufactures which it is necessary to stimulate because they are the principal factor of the wealth of the Republic and the support of its people. We have safeguarded these industries in their early days from European competition by customs values which found their justification in the superiority of foreign industry with its cheaper capital, with its higher trained workmen and employer, with its lower wages, and with a knowledge of the market of the consumer.

But all these advantages can be suppressed little by little.

But another difficulty of insuperable character presents itself for the South American countries. I refer to the lack of coal. Fortunately for us the genius of man which has learned to draw hydraulic power from waterfalls, coupled with the discovery of petroleum deposits in Argentina and Bolivia, will soon place the American continent on a footing of equality with Europe, in so far as manufacturing is concerned, if we adopt a policy of mutual protection.

Customs duties should slowly be diminished and discriminating tariff rates established for the countries of America. These discriminations do not mean hostility to the other continent, but rather an authorization to place the excess of our production in other markets in competition with it. I do not minimize the difficulties of the

problem, perhaps the most complex in the whole of American relations; but it must be faced squarely and manfully if we are to supply means of work and sources of wealth to our growing populations.

The greatness of the United States is due to its free-trade policy among its 48 States and to the mutual protection against the industries of other countries whose competition would be sweeping.

If Central and South America are to have a bright economic future, they must adopt a similar policy, if not of absolute free trade, at least of reciprocal facilities in customs matters for their own industries. Uruguay in its treaties has foreseen this aspiration and has realized that the tendency toward an American customs agreement will force itself forward at no very future date. In keeping with this theory it has denounced almost all international conventions containing the most favored-nation clause and has placed itself in a position to be able to grant and demand special favors without any action on the part of countries outside our continent.

The foreign trade development of the Latin American countries has been stupendous. Ten years ago this commerce did not reach a billion dollars; to-day it passes three billions a year. I do not pretend to minimize the arduousness of the problem, nor do I assert that it is the work of a day, or even of a year; but I do sustain that it is the most important task to which the several sections of the commission can address themselves.

Permit me therefore to suggest that the International High Commission go on record as recommending to the several participating Governments the need of studying some American customs agreement and of drawing up certain formulæ of discriminating tariffs which shall receive preferential attention at the next Pan American Congress.

The motion was unanimously adopted.

## IX.

On behalf of the committee on resolutions Dr. Piñero submitted the report. The committee had been guided by two principles: First, to examine the Spanish text of the resolutions, since in this language they were originally drafted. These resolutions would be submitted to a searching analysis in order to establish the necessary correlation, after which the text would be declared official. And, secondly, this official text would be sent to the countries where Spanish is not the official language for appropriate action.

This verbal report of the committee was ratified by the commission.

## X.

The presiding officer thereupon submitted a report on the establishment of a central executive council charged with coordinating the labors of the commission.

1. *Resolved*, That the Sections of the several participating countries continue until the next meeting of the International High Commission. Each Section shall consist of nine members, of whom the Minister of Finance shall be chairman. It shall select a vice chairman from among its number, and a secretary, who may or may not be a member of the Section.

2. That a Central Executive Council be constituted whose duty it shall be to centralize and coordinate the labors of the Commission, to keep the several Sections

in constant touch with one another, to carry out the conclusions of the International High Commission and the Pan American Financial Conferences, and to prepare the program, reports, and all other material necessary for the holding of the second meeting of the International High Commission. All expenses incurred by the Central Executive Council shall be borne by the country in which it shall be established.

3. That the Central Executive Council submit to the various Sections a draft of the proposed rules of procedure, and all observations and communications relating thereto be transmitted by the Central Executive Council to each Section, in order that the said rules of procedure may be approved at the next meeting of the International High Commission.

4. That the above-mentioned Central Executive Council consist of the president, vice president, and secretary of the Section of the country which may be selected as the seat of the said Central Executive Council.

5. That the next meeting of the International High Commission be not held until two years from this date. It shall be held upon request from at least five Sections. The place and date of meeting shall be fixed after all the Sections have been consulted, and shall be determined by a majority vote. As soon as these points have been decided, the call for the meeting shall be issued by the Central Executive Council.

6. That the various Sections may be represented at the meetings of the International High Commission by delegations of not more than five members each, appointed by the respective Governments. The presiding officer of the meetings of the International High Commission shall be the Minister of Finance of the country in which the meeting shall be held.

7. The city of Washington is hereby designated as the seat of the Central Executive Council.

The resolution was approved.

The Chair then called up for consideration the proposal of Dr. Cosio on the holding of a second Pan American Financial Conference.

Some doubt having arisen in the minds of several delegates as to the difference between the International High Commission meetings and the financial conferences, the chairman of the United States delegation spoke as follows:

Mr. President, I think there is a little confusion of thought about the function of these two commissions. The Pan American Financial Conference, as Mr. Cosio says, has a very much wider scope than has this commission. This Commission is the child of the Pan American Financial Conference. It was created by the Pan American Financial Conference as the specific machinery for carrying into effect the recommendations of the successive Pan American Financial Conferences. We are here to-day for the purpose of considering and dealing with these problems which were specifically referred by the Pan American Financial Conference to this Commission, and the object of this Commission is, after discussing the subjects referred to it and reaching conclusions, to attempt to have those conclusions translated into the law of the respective States. It is, in other words, the working body of the Pan American Financial Conference, and it is its duty to attempt to have enacted into law the conclusions of the conferences which may be held from time to time. The Pan American Financial Conferences are to meet at regular intervals to be determined by the various countries participating therein. The dates will, of course, be fixed upon the suggestion of this commission, or upon the suggestion made by the central committee and accepted by the different countries when submitted to them. Dr. Cosio's suggestion is merely for a meeting of the Pan American Financial Conference in 1917. If at that time such a conference should be held, this Commission will be asked to give an account of what it has done in carrying out the mandate of the First Pan American Financial Conference. It is of extreme importance that the idea of



these successive Pan American Financial Conferences should be adhered to, because the finance ministers of the different Governments who represent the important problems of finance, which are related intimately and vitally to the economic problems with which these countries have to deal, give to that conference a peculiarly distinctive character, and by meeting together with the financiers and bankers designated by their respective Governments and discussing these problems from time to time, great progress can be made in the settlement of difficulties and issues that may arise. Without such meetings interest may not be kept alive. It is then distinctly desirable to have the resolution presented by Dr. Cosio adopted. It fits in with the plan upon which we are proceeding, and, speaking for my country, I may say that we should be very happy to have another meeting of the Pan American Financial Conference in Washington and as many meetings as you may be able to attend. I hope, therefore, that the resolution may be adopted and also that the permanent organization which has been suggested may be put into operation.

The motion was unanimously carried.

## XI.

The report of the third committee on the proposal submitted by the United States delegation for uniform sanitary regulations was read and approved as follows:

SIR: The third committee, to which was referred the "Tentative Plan to Facilitate the Importation and Exportation of Freight in Pan American Traffic," submitted by the United States delegation, has the honor to submit its report.

While your committee has not undertaken an examination of the details of this plan, which, by reason of their technical nature, are not within its province, it nevertheless recognizes the manifest utility of making uniform the sanitary regulations to which Pan American traffic must be subject.

In order to attain this end, the committee approves the suggestion advocated in the project under discussion, namely, the holding of a conference between representatives of the sanitary authorities of each country concerned. We, therefore, submit the following proposal:

*Resolved*, That a conference of the sanitary authorities of the several American States be held shortly for the purpose of effecting uniformity in the sanitary regulations to which international traffic is at present subject.

## XII.

Dr. Grisanti (Venezuela), then made a motion that as a mark of appreciation for the "wisdom and discretion with which Dr. Oliver had conducted the meeting, a rising vote of thanks be accorded him."

The motion was carried amid great applause.

A similar tribute to the Secretary General, Dr. Emilio Hansen, and his staff, was voted with equal enthusiasm.

## XIII.

The Uruguayan delegate, Sr. A. Metz Green, proposed that the conference should, by a rising vote, accord a tribute of appreciation to the President of the Argentine Republic for the many courtesies shown the several delegations.

The motion was unanimously carried.

The chairman of the United States delegation, after expressing the thanks of the members of the United States section for the cordial hospitality extended to them, expressed the thanks of the United States Government "for the signal honor they have conferred upon my country by designating Washington as the headquarters of the International High Commission and to assure you that we shall bring to your service the very fullest measure of intelligence and devotion of which we are capable."

The presiding officer then stated:

I declare the first meeting of the International High Commission adjourned sine die.

#### REPORTS SUBMITTED TO THE UNITED STATES SECTION.

In preparation for its attendance at the meeting of the Commission in Buenos Aires the United States Section requested various experts in the subjects under consideration to submit brief recommendations for action at Buenos Aires.

Following will be found summaries of these reports. One or two of the reports are given in full because of the great importance of the subjects with which they respectively deal.

(a) Report of Prof. Roscoe Pound upon the Uniformity of Laws Governing the Establishment and Regulation of Corporations and Joint Stock Companies in the American Republics.

Commerce is universal, and the instruments of commerce, fashioned by its demands to meet its needs, are no less universal. But the laws that govern the different phases of this universal institution and regulate these universal instruments are local. This situation, to which the business man justly takes exception, since in practical effect it too often makes the law designed to secure the interests of a commercial and industrial society a means of defeating them, through imposing unnecessary restraints upon economic activity, results from the history of modern institutions. Law developed first, trade afterwards. For without the development of law the development of trade would have been impossible. Yet this very circumstance insured that legal institutions develop, without regard to the universal demands of commerce, to meet local conditions of life in noncommercial communities, and made it necessary to mold the legal institutions so developed, as well as might be after they were formative, to adapt them to the wider interests they were later called upon to secure. Just as we, at least, still measure in yards, feet, and inches, or tons, pounds, and ounces, or gallons, pints, and quarts, although the transactions calling for measurement have come to be cosmopolitan; as we still use local modes of reckoning money in business which has become international; as we still use local languages, although the transactions requiring communication transcend local boundaries, so we still attempt to regulate the universal instruments of world-wide commerce by the local legal conceptions that have come down to each people from the past and the local legislation which each people enacts on the basis thereof.

Thus we find ourselves in the commercial world of to-day unable to deal with the cosmopolitan in a cosmopolitan way. Undoubtedly until the facts with which the civil law has to deal become world-wide, until the life of the local community becomes cosmopolitan, universal civil law, sought for by many authors in the immediate past, must remain a dream. But with respect to commercial law the case is very different. Grant, if one will, that administrative law, criminal law, the law of inheritance, the law of the family, and the

law governing transfers of land rest upon positive foundations and arise from the will of the lawmaker, it must nevertheless be evident that the law of international transportation, the law governing sales between buyers and sellers in different lands, and the law governing the organization and control of the entities through which alone business may be carried on in the modern world must needs be in large part a recognition by each State of the usages of world-wide trade to which each State ought to make its local regulations conform.

Civil law, as its name implies, must in its details, at least, be local. It deals with matters of local moment. It subserves local needs. Commercial law, on the other hand, deals with matters of world-wide moment. It subserves universal needs. In consequence, to achieve its end, it must be more or less universal. This distinction is recognized in the countries of Continental Europe by separate civil and commercial codes. It is recognized to some extent in the United States in the doctrine of the Federal Supreme Court that questions of commercial law are matters of "general jurisprudence." It is recognized to some extent in decisions of State courts in the United States in which the doctrine of the binding authority of precedent is relaxed where necessary to bring decisions upon questions of commercial law into harmony with the general course of decision in other States. It is coming to be recognized in legislation in the United States in the movement for uniform State laws upon commercial subjects. Thus, although many circumstances have tended to make commercial law only less provincial than the civil law, both in Latin America and in Anglo-America there are the foundations of universality and there is a certain disposition to take a universal view of matters of commercial law. In consequence it is not chimerical to consider how far uniformity of laws governing the most important of all instruments of commerce—the legal entities by means of which the large enterprises of modern business are carried on—may be hoped for, what obstacles are in its way, and how it may be promoted.

Four points will be taken up in order: (1) What, in general outline, are the systems of law with reference to the legal entities by which modern business is carried on in force in the Republics of America; (2) wherein and why do they differ; (3) what are the chief hindrances to removal of the differences and the bringing about of uniformity; (4) what are the best means of bringing about such uniformity?

## I.

Two systems of law on this subject obtain—one in Latin America, the other in Anglo-America. The former has its roots in the juristic tradition of Continental Europe and so ultimately in the Roman law. The latter has its roots in the Anglo-American judicial tradition and so ultimately in the old common law of England. Thus there is a general uniformity in Latin America and a general uniformity in Anglo-America, though in each case more or less difference of detail may have developed in particular jurisdictions. The French commercial code of 1807 and subsequent French legislation have furnished the model for the Roman-law world in this as in so many other cases. Hence it will be convenient to indicate in outline the

kind of partnerships and companies recognized in the French commercial law. These are three: (a) The ordinary or unlimited partnership (*société en nom collectif*); (b) the limited partnership (*société en commandite*); and (c) the company, or, as we might say, share company, or, in American parlance, business corporation (*société anonyme*). The unlimited partnership is without the scope of this report and calls for no comment. The limited partnership is of two sorts: (1) The simple limited partnership (*société en commandite simple*) and (2) the limited partnership with shares (*société en commandite par actions*). In the former two or more persons responsible to the extent of their entire assets who manage the business, so far as relates to the outside world, are associated with one or more dormant partners, liable only to the extent of their interest as shown, not by shares but by the partnership articles. In the latter there are managers, or, as they might well be called in our parlance, "directors," with unlimited liability, and shareholders, with limited liability, whose interests are secured by a committee of inspectors. The company or share company (*société anonyme*) corresponds in every way to the English company and to the business corporation of the United States.

It will be instructive to compare the foregoing with the German law. In Germany commercial partnerships (or better, associations) are of three sorts: (a) unlimited (*offene*) partnerships; (b) *commandite* partnerships, which may be either simple or with shares; (c) share companies (*Aktiengesellschaften*). To these custom or legislation have added joint-adventure partnerships, registered associations, and partnerships with limited liability as to all members.

If we turn now to the commercial codes of Latin America we find the same system. The commercial codes of Chile and of Colombia, for example, expressly set forth that the legal entities of commercial law aside from natural persons shall be (a) the unlimited partnership (*sociedad colectiva*); (b) the company (*sociedad anónima*); (c) the limited partnership (*sociedad en comandita*); and (d) the joint adventure (*asociación ó cuentas en participación*). In other cases, as in the commercial code of Argentina without any express enumeration, we find the same institutions recognized and provided for. Thus it becomes apparent that the law of Latin America on the subject in hand follows the same lines as the law of continental Europe, and that its most significant feature is the treatment of all kinds of mercantile associations under one general head and a conception of the share company (or corporation, as we should call it in the United States) as a mercantile development of the commercial partnership. This results in a relatively simple process of organization on the model of the organization of a mercantile partnership.

Turning to the Anglo-American law, we come at the outset upon wholly different conception. Whereas the commercial code of Chile (art. 348) and of Mexico (art. 90), for example, expressly declare the ordinary unlimited trading partnership to be a juristic person, it has been taken to be fundamental where the English law prevails that a partnership was not a legal entity, and that legal personality was something conferred specially by the Sovereign through grant of a charter or, in modern times, acquired under provisions of a general law by adopting articles or filing a certificate which, in con-

nection with the terms of the general law, we still significantly call a charter. In other words, we distinguish sharply between the partnership to which, although it has most if not all of the attributes of the commercial as contrasted with the civil partnership of continental Europe, we refuse to concede legal personality, and the corporation, which alone we think of as a juristic person. The model upon which this institution is fashioned is the municipal corporation chartered by the Crown, or the great public-service company chartered by Parliament. Hence, although we have done much to simplify the mode of incorporation, it still smacks of the formality and dignity of the legislative setting up of something of great public moment, even if in fact there is nothing but an every-day private trading company.

## II.

Passing to the differences between the two systems and their causes the first and most significant has already been mentioned, but deserves further consideration. Latin America subscribes to the mercantile view of the nature of a commercial partnership. Thus a consistent scheme of business associations, from the ordinary firm to the share company at the other extreme, becomes possible. If the distinction between a civil and a commercial partnership seems unfortunate, yet that concession to history does no harm in commercial law, and is fast disappearing with the tendency to unite the civil and commercial in one body of law. In the United States, on the other hand, the steadfast refusal of legal theory to adopt the mercantile theory of a partnership, the obstinate adherence to the results of the historical accident that turned the jurists of ancient Rome to the analogy of the consortium of coheirs when they first had to do with the trading partnership, and the resulting gulf between one type of mercantile association and the other, are now made worse by the newly proposed uniform partnership act. This act, while in substance treating the commercial partnership as an entity, expressly refuses to recognize the settled view of the commercial world. Thus a formidable obstacle is put in the way of any rapprochement between the law of companies and mercantile associations in Latin-American and Anglo-American legislation.

A second difference closely connected with the first is the jealousy of purely trading or business companies so prominent in legislation in the majority of the United States for purely historical reasons. We think of a purely mercantile company not as a development of the mercantile partnership in view of the exigencies of business, but as something which typically is specially chartered by the Government—as a dangerous agency which the State must hold down on every hand lest it do mischief. In practice this often results in impossible restrictions upon the commercial activity of the community, so that business men are compelled to go away from home to incorporate. It grows out of applying to the ordinary trading company ideas appropriate to the great corporation, such as the public-service company of to-day, and transfer thereto of the traditional jealousy of corporations in our common law. In the Roman law also there is

a traditional jealousy of associations. But in comparison this has left little mark upon the commercial law of continental Europe.

A third difference grows out of the divergent attitude toward administrative supervision in North and South America. The Anglo-American polity is averse to and jealous of administration. Our common law seeks to regulate the conduct of corporations judicially by proceedings in quo warranto, by criminal prosecutions, and by suits in equity. Most of our States do not supervise the formation of corporations at all, but rely on legal proceedings afterwards to enforce the provisions of the law. Where the formation of corporations is supervised, usually the supervision is exercised through a judicial proceeding. South and Central America, on the other hand, have inherited an administrative tradition and have subjected these matters systematically to administrative control.

### III.

Five considerable obstacles to unification of the law governing mercantile companies on the American Continent must be taken into account. First and most weighty is the local particularism which has become so marked a feature of legislation and even of judicial decision in the United States. It is not merely that the common-law lawyer is prone to believe that Anglo-American legal conceptions inhere in nature. All the circumstances of our partition of the administration of justice and of the field of legislation between State and Nation tend to make each State think of every peculiarity of its local law as something of intrinsic importance—as a precious possession. To a less extent this is true of the nations that have built their own law upon Roman foundations in modern times. The strength of the idea of nationality in the modern world must be reckoned with by every promoter of uniform law.

A second difficulty inherent in such a project is that the present is an era of legislation, and in all eras of legislation the imperative theory of law is dominant. The more that law comes to be felt to be merely positive, to be merely the command of the lawgiver, the more difficult it is to enforce universal considerations. Legislation always tends to produce localization in law. It lacks the check of universal theory which restrains jurists and judges. But the imperative theory of law goes along with the advance of legislation and with the triumph of centralized bureaucracy throughout the world, against which the common law in the United States is fighting a slow retreat. Unknown in Germany until the last quarter of the nineteenth century, the theory of law as will has waxed strong there with the growth of national legislation under the Empire. In England and the United States, the chief parliamentary countries of the world, the imperative theory has almost stood for legal science. Even in Latin countries the failure of ideals of law and government which subordinate the State and its agencies to law must necessarily make for the imperative theory. It is true with the improvement of legislative methods and the working out of scientific theories of legislation we may hope that a real jurisprudence of actualities may be brought about by means of statutes. Legislative investigations through committees, the working out of measures in advance by

associations and congresses and conferences are tending to give to legislatures a breadth of view as to the demands of society with respect to law which jurists or judges were not able to attain in the past. For a long time to come, however, while this relatively new agency of lawmaking is perfecting, we may be certain that legislation and the resulting imperative theory of law will work against universality. Not only will this attitude of lawyers and jurists prove a general factor against a project for uniform commercial law, but the Anglo-American repugnance to codification will prove especially formidable in the United States. As half of the American continent in point of territory and more than half in point of population is skeptical as to the efficacy of legislation as an organ of private law and does not regard codification as desirable, all schemes for the unification of commercial law must be framed in the light of the settled attitude of the Anglo-American common law.

A third obstacle will be encountered in the backwardness of the movement for uniform commercial law within the United States. Uniform commercial law is just beginning to be attained in the United States. It is less than a quarter of a century ago that the Conference of Commissioners on Uniform State Laws began its activities. As a result of its labors a uniform negotiable instruments law has been formulated, which has been adopted in a majority of States. But that law which was formulated many years since remains to be enacted in more than one State of importance in the commercial world. It has drafted a uniform warehouse receipts act which as yet has been adopted in but few States. Its uniform sales act has as yet no more than begun to be adopted. Attempts to enact these statutes in many States have failed, and for a long time to come it will require vigorous exertion on the part of those interested in the movement to secure even this beginning of a uniform commercial law within the United States.

A fourth difficulty will be found in the division of jurisdiction between State and Federal Government in the United States. The regulation of commerce is committed to the Federal Government; the regulation of the instruments of commerce is committed to the States. This is proving in practice a most inconvenient partition. For the purpose of uniform commercial law it permits the local interests of a single community to defeat the general commercial interests of the Nation.

The fifth obstacle is to be seen in the Anglo-American aversion to doctrinal treatment of the law. The natural-law idea has never been congenial to English-speaking peoples, and in consequence universality will not appeal to them with the same force with which it appeals to those trained in Latin systems of jurisprudence. Not only this, but a genuine contempt for legal theory has always been more or less characteristic of the Anglo-American lawyer. Lord Esher thanked God that English law was not a science. Professor Dicey tells us that "jurisprudence stinks in the nostrils of a practicing barrister." The United States is preeminently the land of the business spirit. The business man has been for a generation our type and exemplar. Hence, not unnaturally, lawyers have come to be pure business men. They, too, have the business ideal of making their business pay. They, too, have been judged by the money they



have made, not by the service they have done to justice and to legal science. Hence, among probably the most businesslike of all peoples, commercial law has lagged, and it is not too much to say that in point of legal procedure the United States is far behind all English-speaking peoples. But a generally diffused sense for sound legal theory must necessarily precede any useful or practicable scheme of uniform commercial law.

#### IV.

Are there, on the other hand, any conditions which favor an attempt to promote uniform legislation with respect to the instruments of commerce throughout the American Republics? To my mind, in view of the greater uniformity, to begin with, of commercial law, for historical reasons, which has already been adverted to, there are three factors of no mean importance which might make for the success of such a movement in America. The first is the doctrinal movement for unity of law which is now strong among the jurists and teachers of law in the United States. The judicial lawmaking power of Anglo-American courts, even more than the activities of 48 State legislatures, has been actively destroying the unity of our traditional common-law system in the United States. Jurists and teachers of law have become alarmed at the situation, and it is significant that the cry is strong for the teaching and studying of "general law." International law affords a striking example of the practical results which juristic theory may accomplish. The juristic movement for uniformity of law in the several States of the Union can not fail to result in a general feeling for universality in law wherever practicable and advantageous.

A second factor which should operate strongly in favor of any project for uniform commercial legislation throughout the American Continent is the more universal view of law to which jurists in Latin countries have always inclined. The fortunate ambiguity of *ius* and its analogues in the Latin tongues—*droit*, *diritto*, *derecho*—which preserves the consciousness of a connection which the English *right* and *law*, however conducive to clear thinking, tend to obscure, of itself makes for universality. But over and beyond this Latin America, much more than English America, is, as it were, a soil prepared for universality. It has inherited a universal tradition. The Spanish jurist moralists of the seventeenth century, while not the sole are yet the chiefest exponents of that conception of law as the embodiment of eternal justice which has always been our main reliance against the analytical conception of law as the command of a law-giver. Suárez, for instance, includes in his discussion of law questions as far apart as the rules of games and the laws of economics. He felt that they were laws in that they expressed in some form an idea of right, in that they were concerned with some notion of justice, in that they had to do with an ethical conception prior to and above the rule or law in the stricter sense. This was the atmosphere in which international law grew up and without which it was impossible to have such a system. The recognition of political facts, coupled with ancient ideals of unity and the older notion of law as an eternal verity upon which these jurists insisted, has produced a mode of legal thinking wider and more universal than that which prevails in

English-speaking countries and creates an atmosphere in which a universal commercial law may easily grow up.

A third condition which would favor any project for uniform commercial legislation in America is the sociological movement, strong the world over, but particularly strong and forceful in the active and progressive peoples of the New World. In jurisprudence this sociological movement has built upon and made rational and scientific the old notion of natural law. The appeal from purely legal reasoning to general considerations of utility, of justice, and of adaptation to human activities which it involves, must make for universality. In insisting that we must not forget the end of the law in the means, in taking us back on every occasion to reason as contradistinguished from legal conceptions, this new version of natural law which we are calling sociological jurisprudence is a powerful force against the localizing tendencies of the imperative theory and of legislation.

It must be manifest that we may not expect to move rapidly. For some time we may hope only to educate the public as to the importance of this subject. The great gulf between the mercantile view of Latin America and the traditional Anglo-American juristic conception must be bridged. The jealousies awakened at once by the term corporation, developed in the nineteenth century era of unregulated public service companies and unrestricted commercial activity, must be allayed. The distinction between commercial law, where the problems are universal, and what Continental Europe calls civil law, where there is often much to justify local particularism, must be brought home to lawyers and lawgivers in the United States. The first step then would seem to be the promotion of uniformity from within in both the Latin and the Anglo-American group. To this end it may be expedient to have Federal or even Pan-American representatives in the Conference on Uniform State Laws, which is the chief factor for uniform commercial law in the United States. The second step must be education through scientific discussions in congresses and conventions, bringing out the needs of trade in particular localities and by comparison enabling us to draw with assurance the line between the particular and the universal. This will prepare the way rapidly for sound and practicable lawmaking. Out of such discussions there may well arise in the near future a Pan-American Conference on Uniform Commercial Legislation composed of jurists, practicing commercial lawyers, and men of affairs in due proportion, to give us step by step a scheme of Pan-American legislation with respect to the establishment and regulation of corporations and joint stock companies engaged in commerce, which may be a model, not only to American legislators, but for the world. Nowhere else will the two rival legal systems of the world be so well balanced. Nowhere else will the analytical conceptions of the Anglo-American jurists and the universal, or, if you will, the natural-law conceptions of the Latin jurists, be so equally represented. With each to act as a check upon the other, with each system to throw light upon the other in the handling of concrete problems, we may not unreasonably expect great results.

(b) Report of Phanor J. Eder on the Uniformity of the Law of Bills of Exchange.

Complete uniformity of commercial law even in such a restricted field as bills of exchange, between the United States and Canada on the one hand and the Latin American countries on the other, even if possibly desirable, is not practicable. The history and the course of evolution of the law merchant since its first developments and the method of its formulation, growth, and interpretation have been and will undoubtedly continue to be so divergent that to the practical-minded man, not deluded by the superficial attractiveness of theoretical unification, any attempt at the present time to establish uniformity between North and South America would be only a waste of time and energy that had better be devoted to other things.

It is of more importance to the United States to preserve the substantial uniformity already obtained in the law of bills of exchange with England and her colonies than to arrive at uniformity on the subject with our southern neighbors. The gain of the latter at the expense of the former would be a detriment—not an advantage. Therefore, unless we can succeed in persuading the Latin American countries to forsake their present system, which follows the continental law, and not merely come over in the first place to ours, but to continue to follow step by step our precedents and interpretation of the law, the idea of Pan American uniformity must be abandoned.

We can not expect any such action by Latin America. The only country which appears to have felt the direct influence of the Anglo-American law on the subject is Costa Rica. All the others follow closely one or more continental models. To the Latin Americans, a departure from the law of their continental forbears in an attempt to adopt ours would probably seem as practically unjustified as a departure from our common English heritage would be to us.

On the other hand, the attainment of uniformity as between the Latin American countries themselves seems a thing not only desirable both for them as well as for the United States, but historically logical and feasible. Difficulties of course there would be, but no insuperable obstacles.

This report will be confined to suggestions in regard to obtaining such Latin American uniformity and as to how the United States can help in the program.

It is wisest to follow the lines of least resistance and to make the fullest use of past achievements. The indicated course, therefore, for the Latin American countries is (1) to adopt by appropriate legislation (amending the commercial codes or special laws on bills of exchange and acts referring to the subject) the uniform regulations adopted by the last international conference on bills of exchange held at The Hague in 1912, at which conference many of our southern neighbors took part; and (2) as to the matters left open to the free action of the individual subscribing powers by the convention adopting the regulations and in certain other matters covered neither by the regulations nor the convention, to arrive at uniformity by a special Pan American conference on the subject enforcing by further appropriate legislation, in each country, the result of the conference.

The reasons why the United States and Great Britain can not adopt the uniform regulations proposed at The Hague are so ably

set forth in the reports of the American and English delegates that it is unnecessary to repeat them. Among the objections to the adoption by England and the United States of the uniform law, which appear to me sound, some of the others advanced being perhaps more readily overcome than the objectors supposed, are the following:

I. The practical uniformity already attained in the English-speaking world would be thrown out of gear unless more than fifty legislatures could be induced to follow the lead.

II. The operation of the system could not be the same in the English-speaking countries as in other countries, even though the text of the law might be. We have no special mercantile courts, our law draws no sharp distinction between traders and nontraders, and methods of interpretation are fundamentally different.

III. Speaking broadly, our law is the better law, as it conforms better to the necessities of Anglo-American commerce and banking and the usages of trade.

It is obvious, however, that the adoption of a uniform law by a large number of nations must operate for the advantage of international commerce; and it will be a great advantage to the United States to have the laws of all Latin American countries uniform not merely between themselves but with the law which will probably be adopted by European nations. The advantages to those countries themselves are also obvious, and will increase with the growth of their mutual commercial relations, now extremely limited save one or two exceptions.

The comparative paucity of litigation up to the present time and lack heretofore of commercial development, with two or three exceptions, would render it easy to adopt different rules of law from those now existing, applicable to bills of exchange without any great disturbance. The great readiness with which in the past changes have been made leads one to believe that the Latin American legislatures can be prevailed upon with comparative ease to adopt the uniform Hague regulations. The high authority of The Hague conference, the probabilities of its recommendations being adopted by the leading continental nations, and the careful, painstaking work accomplished thereat give it a prestige that should carry the project far with the South American countries. All that is required is the right kind of propaganda and the enlistment of the offices of the right people to make it a *fait accompli* in Latin America.

#### A.

The uniform regulations proposed are superior, it is believed, to any existing code in any of the Latin American countries, are an immeasurable improvement over many antiquated and retrograde laws still in force, and should be adopted.

In addition it is believed that the uniform Hague regulations would approximate the Anglo-American law of bills of exchange more closely than any code or laws now in force in Europe or South America.

A brief survey of the present field will be sufficient to establish the point made as to the superiority of the proposed regulations. I have deemed a complete comparison or criticism of the present Latin

American laws unnecessary for the purpose of the present report. The references hereinafter made, therefore, are merely intended to be illustrative of the wide and wholly unnecessary divergencies now existing, and no attempt has been made to make them exhaustive.

The law governing bills of exchange in force at the time of the separation of the colonies from Spain was contained in the ordinances of Bilbao, and it was also dealt with to some extent in the "Novísima Recopilación." Soon after the last of the South American colonies had won its complete independence Spain adopted a commercial code, known as the code of 1829. The commercial codes later adopted in the various American countries were generally taken either from this code or from the French code of commerce enacted by Napoleon. The credit of adopting the first code of commerce in South America, which was not a mere translation or copy of the French or Spanish code, rests, however, not with any Spanish-speaking country, but with Brazil. This was in 1850.

The French Code and the early Spanish laws and the code of 1829 follow the theory now regarded as antiquated that a bill of exchange is but an incident arising out of a prior "contract of exchange," and is the instrument by which said contract is carried out. The modern and more practical view, meeting the necessities of commercial and banking usages, is to regard a bill of exchange also and perhaps primarily as an instrument of credit, rather than a mere method of transferring funds from one place to another, and the bill of exchange is regarded as independent of the transaction which forms its base. The former is sometimes referred to as the French system, the latter as the German. The German system, however, requires a certain formalism, which mixed systems, such as the Anglo-American and the most modern codes as well as the uniform regulations, mitigate.

Chile still adheres to the old theory. The Code of Commerce in force was published in 1865 and took effect January 1, 1867. The French Code was the chief source, although several articles are copied literally from the Spanish Code of 1829.

The Colombian law, found in its commercial code of 1887 (a re-enactment of the code of one of its former States, Panama), is almost identical with that of Chile, as also is that of Guatemala (1877), and the Ecuadorian Code (1882) is very similar. The Colombian law continued in force in the Republic of Panama after the separation in 1903. The present commercial code of Bolivia dates back as far as 1834, and is a rather free translation of the French. The old French law is also in force in Haiti and Santo Domingo. In the latter country, indeed, no translation into Spanish of the commercial code was published till as late as 1884.

Mexico (1889) adheres to the old theory, and, as in the other countries, its code is strongly formalistic, a bill lacking any of the technicalities being void (art. 466); but the drawer can draw on himself (art. 454), something not generally permitted where the old theory is in force.

It is obvious that the adoption of The Hague draft in all the foregoing countries will be a vast improvement. It can hardly be expected that codes and theories dating back to the beginning of the nineteenth century are adapted to the requirements of present-

day business. This is generally recognized by jurists in the countries named.

In addition to, or as a result of, the fundamental theory, the following rules, unfortunate as viewed from the United States' standpoint, can be instanced for purposes of illustration:

Any false statement, whether of name, description, place drawn, or place of payment, renders the bill invalid as a bill of exchange and makes it a simple promise. (Santo Domingo, art. 112; Bolivia, 365.) So, too, if it does not contain all the legal formalities. (Colombia, 767; Chile, 641.)

The bill can not be drawn to bearer. (Bustillo: *Derecho Mercantil Comparado*, página 198.)

If a draft is drawn payable at the same place it is deemed simply a promissory note. (Colombia, 763; Chile, 637; Bolivia, 366.)

If the bill does not specify the place, day, month, and year when drawn and precise statement of the consideration it is not negotiable. (Colombia, 759, 767; Chile, 633, 634, 641.)

Different rules govern where nontraders are concerned, e. g., it was held in the Supreme Court of Colombia (Nov. 22, 1889, IV.-130) that drafts drawn in favor of the treasury for customs duties need not be protested.

Interest in case of dishonor runs from date of protest for non-acceptance and not merely from date of nonpayment. (Bolivia, art. 428.)

The bill can not be indorsed in blank. (Bolivia, 385.)

Restrictive indorsements are not permitted. (Colombia, *Gaceta Judicial*, Vol. XIV, 94, 2a.)

The remaining countries have modernized the law, some slightly, others largely. In Nicaragua, for instance, the old theory is not distinctly put forward—drafts can be drawn on one's self—but still survives very largely.

The Argentine Republic, following the lead of Brazil, adopted a commercial code of great importance in the history of the law in 1862. This was the code that had been enacted by the Province of Buenos Aires in 1859. It had been drafted by Dr. Vélez Sarsfield and Dr. Acevedo, the latter an Uruguayan jurist. It modernized very considerably the laws of bills of exchange. Four years later Uruguay adopted a commercial code, which is still in force, largely based on that of Argentina. In the part relating to bills of exchange, more than 80 per cent of the articles are literally the same or with only slight phraseological changes. In some of the remaining articles, however, important modifications were introduced, and notably the old theory was adopted, the revisers stoutly defending it and expressly refusing to follow the lead of Argentina. The first article of the title states that a bill of exchange presupposes a contract of exchange. Their reasons, however, seem more verbal than substantial.

The next forward step in the history of the law was the adoption by Spain, in 1885, of a new commercial code. This recognizes a bill of exchange both as an instrument of credit as well as of exchange, and on the whole constitutes a practical law. It discards the necessity of the parties being merchants in order to give the bill the character of commercial paper; it permits bills to be drawn on the same place; it permits full liberty in indorsements, permits acceptance for a lesser

sum, and free acceptances; and the law is generally free from technicalities. It is a mixed system establishing the necessary provisions for the two cases, the bill as an instrument of exchange and the bill as an instrument of credit according to the interest of the parties. The code was in due course made applicable to Cuba and Porto Rico.

The law of Honduras, with one or two exceptions, is identical with the Spanish law, and the law of Salvador (1904) contains a great many articles indetical with it, others following the Italian or Argentine law.

In 1889 Argentina adopted a new code of commerce. The title on bills of exchange is very extensive, as can be judged by the fact that it contains 149 articles; our own uniform law covering the entire subject of negotiable instruments has only 190 articles. It again abandoned the theories of the French law, and considers a bill of exchange a pure and simple order for the payment of money the existence whereof is independent of any contract of exchange. Article 598 provides that a draft can have an origin and "cause" other than a contract of exchange. The statement of the value received is not indispensable for the regularity of the bill. The name of the person to whom it is to be paid can be left blank and it authorizes an indorsement in blank, thus allying itself to the German system, from which it stands apart, however, in regard to the subject of cover or provision of funds. Paraguay adopted the Argentine Commercial Code in 1903. It had already been applied in practice.

Venezuela (1904) and Peru (1902) have enacted in their codes of commerce the modernized and progressive Italian law on bills of exchange. Article 437 of the Peruvian Code, for instance, provides:

It shall not be necessary that a commercial draft show how the amount thereof has been received or is to be received or the reason of its negotiation, or that a transfer of values from place to place should be affected by means thereof.

A bill may also be drawn upon a drawer himself, provided, however, that it has to be paid in a place different from that where it is issued. (Art. 438.)

Finally, Costa Rica and Brazil have, in late years, adopted bills of exchange laws separate and apart from their codes of commerce, the former in 1902 and the latter in 1908. (Decree No. 2044, of Dec. 31, 1908.) \* \* \*

Indorsements after maturity are not recognized in Argentina, where there must be an assignment under the formalities required for nonnegotiable instruments (Cam. Comercial, III, 283; id., XXXII, 132). Undue formalities for protest, however, seem to be required. Protests must be made by a notary and two witnesses or two notaries (art. 120), although there is a provision that difficulties or irregularities in a protest or documents in lieu thereof will render the same invalid or not according to the importance of the act.

There is freedom in the choice of suit against the parties liable, but the backward idea is retained that action having been commenced against one of the parties responsible it can not be commenced against the others until after the execution has been returned unsatisfied against the one first sued (art. 145). This is substantially the rule also in Argentina; there must be evidence in court of insolvency. (Cam. Comercial, XLIII, 53.)

This law and the Brazilian law are not only among the most modern but the most modernized laws on the subject. With the

possible exception of these two countries, it holds true that the uniform Hague regulations would be per se a definite improvement on any existing Latin American law on bills of exchange, and at the same time their adoption would approximate the Latin American to the Anglo-American law more than does any existing code except the Costa Rican.

#### STAMP LAWS.

There should be enacted into law by all the countries at the same time that they adopt the uniform regulations the principle of article 19 of the convention. This would be accomplished by laws repealing any provision whereby, as now, the validity of obligations arising out of the bill of exchange or the exercise of the rights that flow therefrom is subordinated to the observing of the provisions in revenue laws concerning the stamp, leaving, however, in full force, if desired, and as permitted by article 19 of the convention, provisions suspending the exercise of rights until the stamp laws have been complied with, and providing further that the quality and the text of an instrument "immediately executory" (equal to the "juicio ejecutivo," which is such a beneficent feature of the present Spanish-American law in regard to bills of exchange and certain other instruments), which according to their legislation may be attributed to a bill of exchange shall be subject to the condition that the stamp law has from the issue of the instrument been duly complied with in accordance with such laws.

#### B.

Where liberty of action is permitted by The Hague Convention to the contracting States, every effort should be made to secure uniformity by means of a special Pan American conference on the subject of bills of exchange.

The Hague Convention left a great many matters open to the free action of each State. It is to my mind quite feasible to obtain uniform action by the Latin American countries on these points also. This result can best be accomplished by calling a special international conference on the subject to draft a uniform law covering these points.

Among the subjects or particular points of the law of bills of exchange left open by the convention, and which would be dealt with at such special Pan American conference, would be the following:

That every State provide that bills of exchange issued in its own territory, which do not contain the expression "bills of exchange," shall be valid, provided that they contain an express statement that they are payable to order (art. 2 of the convention; in derogation of art. 1 of the regulations).

What substitutes for signature are permissible (art. 3 of the convention). In Argentina, for instance, the actual signature of the acceptor is required; a rubber stamp of the firm, although authenticity be proved, containing the name in full, is not sufficient. (Cam. Com. 97-175.)

That an aval (collateral guarantee) may be given by a separate instrument (art. 5 of the convention, in derogation of art. 30, Par. I of the regulations). This is the rule in the advanced codes (e. g., Salvador 421; Spanish Stamp Law of 1900, art. 153).



That bills be permitted to be drawn payable "in market" and the date of time of payment of bills so drawn be fixed (art. 6 of the convention, in derogation of art. 32 of the regulations). The most practicable would seem to be to hold that any time during the fair or market would be due time for payment.

The adoption or nonadoption of provisions in derogation of article 18 of the regulations, that so far as relates to an indorsement within its territory, a statement implying a pledge shall be deemed to be unwritten (art. 4 of the convention).

The supplementing of article 37 of the regulations, so as to provide that in the case of a bill payable in its own territory, the holder shall be bound to present it on its due date (art. 7 of the convention).

Whether to authorize the holder to refuse, in derogation of article 38 of the regulations, the partial payment of instruments (art. 8 of the convention).

That with the assent of the holder, protest may be replaced by a declaration dated and written on the bill itself, signed by the drawee, and transcribed in a public register within the limit of time fixed for protest (art. 9 of the convention).

Whether or not to take advantage, as would seem desirable, of the greater latitude as to the time when protest must be drawn up, permitted by article 10 of the convention, in derogation of article 43, paragraph 2 of the regulations.

To provide that the notice of nonpayment contemplated by article 44, paragraph 1, of the regulations may be given by the public officer charged with drawing up the protest (art. 11 of the convention).

In view of conditions prevailing in many of the American countries it is natural that interest to be recovered in case of dishonor shall be, where the rate is not specified, at the rate of 6 per cent, as permitted by article 12 of the convention, in lieu of 5 per cent as provided by article 47, paragraph 1 (42) and article 48 (2) of the regulations.

A uniform rule should be adopted, as permitted by article 13 of the convention, that in case of loss of right of recourse or in case of prescription there shall lie an action against the drawer who has not provided cover or against a drawer or an indorser who has made inequitable gain. The same power to exist in the case of prescription, so far as regards an acceptor who has received cover or has made inequitable gain (art. 13 of the convention).

To provide uniform law on the question, left open by the convention and regulations (convention art. 44), whether the drawer is bound to furnish cover at maturity and whether the holder has any special rights on this cover.

To provide a uniform rule, as permitted by article 15 of the convention, regulating the consequences of the loss of a bill of exchange and with regard to the issuance of a new bill, or the right to obtain payment of the bill, or the right to institute proceedings for annulment.

Uniform rules, as permitted by article 16 of the convention, determining the causes of interruption or prescription in the case of action on bills of exchange.

Uniformity on matters not covered by The Hague Convention or uniform regulations should also be attained by the special Pan American Conference.

There are a great many points of or bearing on the law of bills of exchange not covered by the uniform regulations, or as to which no provision is made in the convention, which could also well be the subject of unification and the subject of discussion and action by the special Pan American Conference which has suggested, e. g.—

(a) Formalities as to protest.

The uniform regulations simply provide as to the rule of conflict of laws that the form of and the limit of time for protest are to be regulated by the laws of the State within whose territory the protest must be drawn up.

In a great many of the Latin American countries the formalities required for protest are altogether too severe for practical use; especially in small country towns they are often impossible of fulfillment, except at prohibitive cost.

(b) Statutes of limitations.

(c) Acceptances.

The Hague Convention contemplates liberty of action by the contracting States in regard to the drawer furnishing cover.

But neither the regulations nor the convention deal completely with rules as to acceptances other than on the instrument itself or with rules as to the obligation of a person promising beforehand to accept or authorizing the drawing of draft upon him.

On this subject of promises to accept, etc., our own law might well be recommended to the attention of the conference.

The Argentina Code, for example, provides (art. 637) that a written or oral promise to accept a bill is equivalent to acceptance in favor only of the person to whom the promise was made.

This does not seem to have been passed upon in the Argentina courts. Our own rule is not only clearer, but also decidedly in favor of dealers in good faith. Section 135 of our negotiable instrument law provides:

An unconditional promise in writing to accept a bill before it is drawn is deemed an actual acceptance in favor of every person who, upon the faith thereof, receives the bill for value.

Likewise, in regard to acceptances written on a paper other than the bill itself, our own law is more liberal. The acceptor is bound in favor of any person to whom it is shown and who, on the faith thereof, receives the bill for value (sec. 134, negotiable instrument law), whereas under the Argentina Code (art. 639) such an acceptance carries an obligation which is not negotiable (*idem* Colombia): Bustillo, p. 206), and only in favor of the person to whom it is given.

Under the Chilean Code (art. 666) and its congeners, a promise to accept a bill is not equivalent to an acceptance, and its sole result would seem to be to obligate the promisor to pay the drawer damages provided that the requisites for a promise prescribed by the civil code were complied with, and there seems to be no provision to protect or rights to, a bona fide holder for value who has received the paper in reliance on the drawee's promise. Under the section just cited of our negotiable instrument law our courts have held that an unconditional authorization to draw was equivalent to an unconditional promise to accept, and hence can be made the basis of a suit on the bill itself, a very useful result in international dealings.

There seems to be no such distinct recognition in the Latin American legislation or jurisprudence of this principle.

There are a great many other points that could be advantageously discussed, even if no uniform result were obtained, at the conference proposed.

In conclusion, I respectfully beg to make the following

#### RECOMMENDATIONS.

1. That the International High Commission, appointed pursuant to the action of the Pan American Financial Congress, and the individual members thereof, recommend, to the Latin American countries, the enactment into law of the international regulations adopted at The Hague.

2. That the International High Commission proceed forthwith to—

(a) Enlist the services of the administration in each country on behalf of the international regulations.

(b) Organize in each country an efficient commission of bankers, merchants, statesmen, lawyers, and editors, pledged to work for the adoption of the international regulations.

3. That the International High Commission prepare or cause to be prepared forthwith, in or for each country; the necessary bill or project of law adopting the uniform regulations and for that purpose, redraft or cause to be redrafted the pertinent titles of the commercial code or of the bills of exchange act, each bill to terminate with an article repealing specifically by name and number each and every provision of law intended to be repealed and not merely by a general repealing clause, as is so frequently done that "all inconsistent provisions are hereby repealed."

4. That the International High Commission cause to be published and widely distributed copies of the uniform regulations and conventions, and of such part of the proceedings or reports of The Hague meetings as may be useful for propaganda purposes, and also such other special articles or pamphlets setting forth the advantages of the uniform regulations as it may deem necessary. And, if possible, have books published in Spanish and in Portuguese explaining in detail the uniform regulations.

5. That the International High Commission proceed to call and organize a special Pan American Conference to be devoted to the subject of bills of exchange, the purpose whereof shall be to draft a uniform law covering the points left to the free action of the contracting States by The Hague Convention and covering such other matters relating to the laws of bills of exchange as may be advisable. The same conference might also consider the subject of checks and promissory notes, if deemed advisable, but no other.

6. That for the guidance of such conference the International High Commission cause to be prepared careful and well-annotated translations into Spanish and into Portuguese of the English bills-of-exchange act and the American negotiable-instruments law, with a systematic comparison thereof with The Hague Regulations and with the existing law of the Latin American countries.

7. That the International High Commission cause to be prepared a translation and comparative study of the Latin American laws on the subjects of bill of exchange, duly annotated, for the guidance of the American delegates to such conference and for present-day utility to the American banking and commercial community. This work has only partially been covered to date by the Commercial Laws of the World Series, some of the translations of which are not entirely satisfactory, and the cost of the work prohibits wide distribution.

8. That the United States members of the International High Commission proceed to enlist the support and financial aid of banking and mercantile interests in this country in furtherance of the adoption by the Latin American countries of The Hague Regulations and of the principle of Latin American uniformity.

(c) Report of Charles S. Haight on Uniformity of the Law of Bills of Lading.

Upon the assumption that shipments are insured, either by the shipper or the consignee, the following are the broad requirements for a safe trade, i. e., safe for shippers, bankers, and consignees:

(1) The carrier must be responsible, under his duly executed bill of lading, whether or not the agent issuing it has actually received the goods. (2) The bills of lading and insurance policies must be uniform and must be drawn with relation, one to the other, so that the holder may look, with certainty, either to the carrier or the underwriter for full protection in case of any ordinary loss. (3) These uniform forms must not be subject to constant change. (4) The bills of lading must be fully negotiable. (5) Systematic protection must be afforded against the circulation of fraudulent and forged bills.

The need of protection against fraud is emphasized by the fact that, during the past five years, two concerns alone, by the use of false documents, have defrauded bankers and buyers of over \$10,000,000. Individual bankers, acting independently, can not protect themselves against a repetition of such frauds.

The general outline of the action to be taken by the Pan American Financial Conference, to obtain uniform laws and uniform practice in connection with international bills of lading is, as I see it, as follows:

1. Invite the ocean carriers, rail carriers, and cargo underwriters into conference before any course of action is decided upon as to changes in the law or in the forms of the commercial documents.

2. Make the necessary changes in our Federal law by passing a bill similar to the Uniform Bill of Lading Act and advocate the passage of the same bill, in identical phraseology, by all Latin American countries.

3. Agree with the carriers upon a uniform and permanent form of bill of lading, and with the cargo underwriters upon the substantial form of the insurance policy, these documents to be so drawn that, when taken together, they shall afford the holder thereof ample protection against all ordinary risks.

4. Protect our South American trade against fraudulent bills of lading:

(a) By the passage of an act creating a central bureau, to which our interstate carriers shall be required to send duplicate signed copies of every export bill of lading issued by them.

(b) By an agreement with the ocean carriers to forward to the central bureau signed copies of all bills of lading issued by them, both in American and Latin American ports, and to advise as to the receipt, at the seaport, of cargo moving under railroad through bills.

The central bureau should be placed under the jurisdiction of the Department of Commerce, but, if possible, should be located at the customhouse in New York City, in order that the exchange bankers, who are very largely located in New York, may make use of it with the utmost promptness and the least possible inconvenience.

Without such a central organization for checking bills of lading, discounting bankers and buyers of merchandise must continue to accept bills of lading blindly, without the slightest chance of knowing whether they are forgeries or not, and a repetition of past frauds is unavoidable.

(d) Report of Welding Ring on the Uniformity of the Law of Warehouse Receipts.

Warrants are hardly to be differentiated from the warehouse receipts which are so widely used in the United States, although under varying State rules. The system of warehouse receipts serving as the basis of credit operations is well known in Europe, but rather more familiar to the English business man than to those of the Continent.

In Latin America we find the use of warehouse receipts or warrants to be very slight as compared with that in Europe and North America. Central America and the west coast of South America hardly know the institution at all; warehouses are generally Government institutions, and merchandise simply lies in them until the duties are paid, thus failing to serve any purpose as regards the extension of credit during the period between the giving of an order and payment.

On the east coast of South America, too, the warrant is but slightly availed of; while it is not unknown in such States as Brazil, the conditions under which it must be issued, and the limitations upon its movements, necessarily prevent it from taking any significant part in the commercial development of the Republic. One nation, however, has adopted a forward-looking and liberal policy toward this flexible credit instrument. The Argentine Republic has codified its law on warrants, and is now engaged in examining the effects of this law as well as possible improvements. The Argentine regulations are quite clear in insisting that a warrant is absolutely a first lien on the goods and that in turn the goods are absolutely responsive to the call and movements of a properly issued warrant.

Financiers of the United States point out the notable advantages which must result from the extension of the use of warrants in Latin America. Since the crop-raising and crop-moving seasons of the two continents, northern and southern, alternate, it is clear that the establishment of a reliable warehouse system would afford Latin American importers amply secured credit for their trade operations in North America.

(e) Letter of Mr. Paul Fuller and summary of memorandum prepared at his request by Mr. Harry Van Dyke on the Juridical Condition of Foreign Corporations in Latin America.

SEPTEMBER 18, 1915.

Hon. W. G. McADOO,

*Secretary of the Treasury, Washington, D. C.*

MY DEAR MR. SECRETARY: I am inclosing to you a concise memorandum on the practice of Latin American countries, prepared by my friend Mr. Van Dyke, of Washington.

While the importance of a uniform system of legislation with reference to corporations approaches in importance a like uniformity with reference to commercial and monetary transactions as affected by notes, bills of exchange, warehouse receipts, bills of lading, and other collateral, and the negotiability of like instruments and with reference to drawers, drawees, indorsers, etc., there is not, with reference to corporate rights and liabilities, the long and wide-spread custom and tradition to serve as a guide toward such uniformity. Universal and far reaching as corporate agencies have become, the character and extent of their operations and internal organization is subject to continual alteration, whether of expansion and restriction; and there does not yet exist any well-defined consensus of opinion as to the limitation which should be put upon one or the other of these tendencies.

Under the circumstances I shall not deem it advisable to attempt too large a measure of uniformity but rather to seek only, for the present, to secure uniform regulations for foreign corporations.

(1) Uniformity in the requirements for registration of foreign corporations, and the degree of official supervision.

(2) Uniformity in the basis of taxation—whether upon the capital employed in the foreign country or upon the business there transacted.

(3) Uniformity as to the classification of corporations of a fiduciary character, demanding specific regulations to insure the safety of those intrusting their property to such corporations, i. e., insurance companies, surety companies, banks, trust companies, etc., and building and loan associations.

(4) Uniformity as to the character and extent of the guarantee required of such fiduciary corporations to insure proper protection to those dealing with them. In this regard the requirements of Mexico, Bolivia, Chile, and Venezuela, show marked differences.

Uniformity on these points is not only desirable, but once achieved will prepare the way to further inquiry which must result in further agreement upon more important points.

I remain, my dear Mr. Secretary, very sincerely, yours,

PAUL FULLER.

The Lex Mercatoria has had no traditional jurisdiction over corporations operating beyond the boundaries of their countries of origin; we lack the guidance of the long-established practices which insure us substantial uniformity in other matters.

It would seem that we might profitably work for uniformity in the requirements for registration, which at present are held by many to

be unduly burdensome. The argument that the burden of the domestic merchant must be fairly shared by the alien competitor is made to cover much narrow regulation.

Likewise a definite understanding should be reached as to the system to be pursued in imposing taxes upon business organizations, and in classifying and fixing the minimum guaranties of fiduciary corporations. The definition and standardization of these matters would be a most helpful step in the work of strengthening companies operating through branches in Latin America.

(f) Report of Prof. Joseph F. Johnson on the Establishment of a Gold Monetary Standard in the American Republics.

Until more complete information is available it is idle to attempt to work out a plan for the immediate reform of the currency systems of Latin America. In general it may be said that two fundamental steps could be taken—the establishment of the gold standard or gold-exchange standard and the foundation of a central bank in each country.

The gold-exchange standard is more economical than the gold standard. Its establishment would require the assembly of a gold reserve sufficient to guarantee the redemption into gold of all other forms of currency for making foreign payments. The means of obtaining the reserve will probably be public borrowing, while its size will depend upon not only the financial situation of the Government, but upon the extent to which gold currency is used in domestic business. In general the less gold required the more stable the system will be; gold should be husbanded for foreign exchange and enough of it kept abroad to meet obligations. The local conversion rate should be just enough above par to maintain a maximum exchange rate, while foreign drafts ought to be converted into domestic paper at a rate below par.

The safest agency to regulate this gold-exchange system would be a central bank, amenable to the Government but under liberal legislation. Such a bank would hold the reserve of the nation, issue notes, and act as fiscal agent of the Government.

Finally, it is to be recommended that the American Republics in settling upon the pars of exchange adopt a common unit, in order to make the currency units of the several States mutually divisible, while retaining, of course, their various monetary systems.

(g) Report of John H. Fahey on the Extension of Arbitral Procedure to Commercial Disputes.

While the principle of arbitrating commercial disputes has been familiar for some years within the scope of various trade organizations, its full possibilities were not realized until very recently. The International Congresses of Chambers of Commerce of London, Boston, and Paris directed their attention to the consideration of the means of extending universally an efficient and satisfactory system of dealing with trade disputes.

The chief obstacle to this improvement is the difficulty of securing court decrees for arbitral decisions. The European jurists would have hard enough work to secure the amendment of their own laws.

so as to provide this reform; but their task would be as nothing compared with that of the United States. While it has been suggested that legislation on the part of New York State might cover the vast majority of cases of arbitration, it has not been made clear how one might answer the objection that we are raising a body of technicians, with a distinct and narrow procedure, to the rank of a tribunal of justice.

We are convinced that the objects in view will be achieved best by the adoption of a summary procedure administered by merchants as a group, and depending for its effectiveness upon moral suasion.

It would seem, therefore, that at this time it would be advisable that the United States members of the International High Commission recommend:

(1) That arrangements should be made for a representative commercial organization in each country to become a party to a plan for arbitration of disputes arising between individuals engaged in international trade, such as the plan formulated by representatives of the Chamber of Commerce of Buenos Aires and representatives of the Chamber of Commerce of the United States, a copy of which is attached; and

(2) That in each country where an active and representative commercial organization does not now exist endeavors should be made to form such an association of business men as will be national in the scope of its membership and in its study and promotion of national commercial interests.

(h) Report of Elliot H. Goodwin on the Uniformity of Regulations Concerning Commercial Travelers and Their Samples in the American Republics.

Commercial travelers play a very important part in the expansion of trade as this becomes more and more highly specialized and technical. It is in the interest of Governments to facilitate the work of commercial travelers as far as possible. Heavy taxes imposed upon them in accordance with a general fiscal policy of occupation taxes will do much indirect harm to the revenues.

Heavy fees imposed upon commercial travelers for the privilege of importing samples for a fixed period of time amount to import duties under another form. Particularly vexatious is the fact that these fees differ within the various countries from State to State and even from municipality to municipality. Methods should be devised for standardizing the duration of time during which samples may enjoy freedom from duty and the amounts to be levied, consolidating the latter in each case.

There have been suggested recently various types of certificates which duly accredited commercial organizations might issue to commercial travelers. We can see some advantages, but there are serious objections to the issue of such certificates by other than governmental authority.

It is recommended, therefore, that the United States members of the International High Commission on Uniform Laws make certain representations looking toward action on the part of the commission on the matter of regulations for commercial travelers and their samples.



These would take the following form:

I. COMMERCIAL TRAVELERS.

1. That all American Republics should receive commercial travelers not only from other American Republics, but from all other countries, without exacting fees or taxes of any sort because of their occupation; that the principle of reciprocity which is commonly applied in international relations strongly favors this; and that the principles of reciprocity incorporated in the convention signed at Buenos Aires in 1910 relating to such comparable subjects as trademarks are a persuasive argument to the same result; and

2. That if any American Republic finds it difficult to abolish at once any taxes now levied by States or municipalities as one of their regular and important sources of revenue, for which they can not readily provide a substitute, the National Government should establish a fair and uniform tax to be paid by commercial travelers when they enter the country and distribute the proceeds ratably among the States and municipalities which otherwise would assess their own taxes; but even such a national tax should be continued only so long as may be necessary for the States and municipalities to establish other forms of revenue.

II. SAMPLES.

1. That taxes assessed by State and municipal governments against commercial travelers because they carry samples should be abolished.

2. That each American Republic should admit, free of duty and of restriction, all samples which are in fact without value as merchandise, either because of their nature or because of mutilation or incompleteness.

3. That an officially attested list of samples of commercial value, giving a full description of each item and issued without charge at the time a commercial traveler departs from his own country by the consular authorities of an American Republic, should be accepted by the customs authorities of the American Republic in question as establishing the character of the articles as samples.

4. That for each commercial traveler samples which are certified in the manner suggested next above and which do not exceed \$500 in value should be examined and appraised at the passenger dock or landing without delay and without requirement of formal entry.

5. That if any duties are collected upon samples, the whole amount paid should at once be refunded when the samples, to be identified by the customs authorities by means of marks affixed by them at the time of importation, are reexported within the period which has been set.

6. That if a bond is taken to secure payment of duties in the event such samples of commercial value as are dutiable are not reexported within the period set, the bond should be canceled at once when the samples, identified by the customs authorities in the manner suggested above, are in fact reexported within the period.

7. That the period during which reexportation of samples will result in refund of duties or cancellation of bond should not be less than six months, which period should be uniformly accepted throughout American Republics as a minimum.

8. That as a prerequisite for refund of duties or cancellation of bond reexportation through the port of entry should not be required.

9. That all formalities at the customs should be simplified to the greatest degree possible, the entrance of samples should be expedited, and all opportunities for unaccountable delay on the part of customs officials should be obviated.

(i) Report of Thorvald Solberg on Uniformity in the Law of Copyright in the American Republics.

It seems desirable, in order to make a clear and intelligent statement, first to set out briefly what are our present copyright relations with our southern neighbors, and on what basis they rest.

#### UNITED STATES COPYRIGHT LEGISLATION.

The copyright law now in force in the United States is the act approved March 4, 1909, to amend and consolidate the acts respecting copyright (which went into effect on July 1 of the same year), as amended by the acts of August 24, 1912, March 2, 1913, and March 28, 1914.

#### STATUTORY PROVISIONS AS TO INTERNATIONAL COPYRIGHT.

Our international relations in regard to copyright are based upon the provisions of section 8 of the act of 1909 extending the copyright secured by that act to include works by foreign authors:

(1) "When an alien author or proprietor shall be domiciled within the United States at the time of the first publication of his work"; or

(2) "When the foreign State or Nation of which such author or proprietor is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens, or copyright protection substantially equal to the protection secured to such foreign authors under this act, or by treaty"; or

(3) "When such foreign State or Nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States may, at its pleasure, become a party thereto."

The act further provides that the existence of such reciprocal copyright conditions shall be determined by the President by proclamation made from time to time.

#### INTERNATIONAL COPYRIGHT RELATIONS ACTUALLY ESTABLISHED.

Under the similar provisions of the copyright act of March 3, 1891, and the provisions quoted above from section 8 of the copyright act of 1909, such proclamations have been issued by the President with respect to reciprocal copyright relations in behalf of 26 countries. (A complete list, with the date of each proclamation, is attached.)

It is necessary for a correct understanding of our international copyright relations to keep clearly in mind the two very different kinds of agreements entered into, namely:

(1) A reciprocal exchange of the rights granted in each country by the domestic copyright law of that country, upon full compliance with the requirements of such domestic law upon the part of the copyright claimant, and

(2) A reciprocal exchange of special rights and privileges secured to each country by the terms of and upon compliance with the stipulations of a copyright treaty or convention.

Within the first group belong the following countries with which we have copyright relations simply by virtue of the issuance of presidential proclamations: Austria, Belgium, Chile, Costa Rica, Cuba, Denmark, France, Great Britain and the British possessions, Italy, Luxembourg, Mexico, Netherlands and possessions, Norway, Portugal, Spain, Sweden, Switzerland, and Tunis.

In the same class are the following countries on whose behalf presidential proclamations have been issued based upon agreements or treaties which extend the rights and privileges of our copyright laws to foreigners: Germany, by virtue of the "agreement" signed on January 15, 1892; China, by virtue of Article XI of the treaty for the extension of commercial relations, signed October 8, 1903; Japan, by virtue of the copyright conventions signed November 10, 1905, and May 19, 1908; and Hungary, by virtue of the copyright convention signed January 30, 1912.

In the second group (i. e., countries with which we have established reciprocal copyright protection based upon treaty stipulations) are found the following nine Latin American States: Bolivia, Costa Rica, the Dominican Republic, Ecuador, Guatemala, Honduras, Nicaragua, Panama, and Salvador. The character of the copyright relations thus established is explained in the following paragraphs:

#### COPYRIGHT RELATIONS ESTABLISHED WITH LATIN AMERICAN COUNTRIES.

International copyright relations have been established by means of presidential proclamations on the dates stated with Mexico, February 27, 1896; Chile, May 25, 1896; Costa Rica, October 19, 1899; and Cuba, November 17, 1903. It is understood, therefore, that authors who are citizens of these four Latin American countries have been entitled to all the rights granted by the copyright laws of the United States in force since the dates stated) upon full compliance with the requirements of our copyright laws), with the one exception of "copyright controlling the parts of instruments serving to reproduce mechanically a musical work," granted by section 1(e) of the copyright act of 1909. To secure this right required a special proclamation. Such proclamation was issued by the President in behalf of the citizens of Cuba on November 27, 1911. Reciprocally, United States authors from the dates stated have been entitled to such copyright protection in Mexico, Chile, Costa Rica, and Cuba, as the laws in force grant in each of these countries, and therefore, in the express terms of the copyright act, citizens of the United States are accorded in each of these countries "the benefit of copyright on substantially the same basis as to its own citizens."

#### PRESENT COPYRIGHT-TREATY RELATIONS WITH LATIN AMERICAN COUNTRIES.

(1) *Treaty signed at Mexico, 1902.*—In addition to the copyright relations established, by virtue of presidential proclamations, between the United States and the four countries named above, the United States on April 9, 1908, proclaimed its adhesion to the "convention between the United States and other powers on literary and artistic copyrights," which was signed at the city of Mexico on Janu-

ary 27, 1902. This convention went into effect between our country and Costa Rica, Guatemala, Honduras, Nicaragua, and Salvador on July 1, 1908. Under the provisions of this convention authors who have obtained copyright for their works in one of the signatory countries to which they belong may file a copy of each such work, accompanied with the copyright certificate and a petition claiming recognition of the copyright in each of the other countries.

So far as the copyright office has any information, however, not a single application has been filed by any author of either of the five countries. A very few petitions have been filed by citizens of the United States to secure copyright in some of the Central American countries. It is presumed that this convention is virtually superseded by that of 1910.

(2) *Convention signed at Buenos Aires, 1910.*—A convention on literary and artistic copyright was formulated at the Fourth International American Conference and was signed at Buenos Aires on August 11, 1910, by all the Latin American States, except Bolivia, and by the United States. The ratification of this convention was advised by the Senate on February 15, 1911, and it was ratified by the President on March 12, 1911, but was not proclaimed until July 13, 1914. On that date it went into effect between the United States and the Dominican Republic, Ecuador, Guatemala, Honduras, Nicaragua, and Panama, as well as Bolivia, whose adhesion to the treaty has been announced through diplomatic channels. This agreement is liberal and is modern in spirit. It provides that "the signatory States acknowledge and protect the rights of literary and artistic property in conformity with the stipulations of the present convention," and that authors or their assigns who are citizens of one of the signatory countries or who are foreigners domiciled in such country, shall enjoy in the other signatory countries the rights which the respective domestic laws of such countries accord.

Finally, the convention expressly provides that a copyright obtained in one of the signatory countries "shall produce its effect of full right in all the other States, without the necessity of complying with any further formality, provided always there shall appear in the work a statement that indicates the reservation of the property right." It would seem, therefore, that authors of the seven countries which have ratified and proclaimed this convention are protected in the United States for all of their works published since July 13, 1914, in any one or more of these countries, provided such works contain a statement that copyright is reserved. No other formality is stipulated. No copies are required to be deposited, no registration is necessary. The protection includes all the rights accorded by our copyright statutes, subject only to such limitation or qualifications as the express provisions of the convention may imply. The term of protection is that of our own statute, provided this term of protection is not longer than that granted by the country of origin of the work or that of the country having the shortest period of protection, in case the work appeared simultaneously in several of the signatory countries.

## COPYRIGHT IN THE UNITED STATES FOR LATIN-AMERICAN AUTHORS: SUMMARY.

As will be seen from the preceding, authors who are citizens of Latin-American countries may secure copyright in the United States as follows:

1. An author who is a citizen of any one of these countries may obtain copyright for his work if domiciled in the United States at the time of the first publication of that work.

2. Citizens of Mexico, Chile, Costa Rica, and Cuba may obtain copyright by full compliance with the requirements of the copyright laws in force in the United States. But only in the case of Cuba will such copyright secure the control of the reproduction of music by mechanical musical contrivances.

3. Citizens of Costa Rica, Guatemala, Honduras, Nicaragua, and Salvador are entitled to obtain copyright under the provisions of the copyright convention signed at Mexico in 1902.

4. Citizens of Bolivia, the Dominican Republic, Ecuador, Guatemala, Honduras, Nicaragua, and Panama have been entitled to copyright protection under the provisions of the copyright convention of 1910 since July 13, 1914.

The protection secured in the United States is uniform for the authors of each of these countries, and the copyright owner's remedies are the same in case his work is infringed and suit is brought for such infringement in a United States court. But the conditions upon which such copyright may be secured differ considerably. The authors within groups 1 and 2 must fully comply with the requirements of our copyright statutes: (1) Affix notice of copyright in the form expressly prescribed upon each copy of the author's work "published or offered for sale in the United States by authority of the copyright proprietor"; (2) deposit the copy or copies or "identifying reproduction" which the law expressly requires; (3) file a claim to copyright for registration; (4) pay the registration fee; (5) if the author's work is a book in the English language the copies must be printed and bound in the United States and an affidavit to that effect be filed; (6) lithographs or photoengravings must be produced in the United States.

The authors within group 3 would seem entitled to escape some of these stipulations; and those within group 4 are expressly released from any requirement except the insertion in the published work of a statement to indicate that the copyright is reserved. But while the authors within the first two groups would secure copyright for the full period provided by our law, authors within both the third and fourth groups might be accorded protection for a shorter term than that granted by our own law, and those within the fourth group would secure a protection qualified by the special provisions and stipulations of the convention of 1910.

These variances and inequalities ought to be eliminated, and it would seem probable that this could most readily be accomplished by an attempt to secure the adhesion of all the Latin-American States to the copyright convention of 1910, thus securing identical treatment in the United States for the citizens of each country.

RECIPROCAL COPYRIGHT PROTECTION FOR CITIZENS OF THE UNITED STATES IN THE  
LATIN-AMERICAN COUNTRIES.

From the preceding explanation it will be seen that American authors have been assured the benefit of copyright on substantially the same basis as copyright is permitted to their own citizens in the case of Mexico, Chile, Costa Rica, and Cuba from the dates of the respective proclamations issued by the President; that they have enjoyed in Costa Rica, Guatemala, Honduras, Nicaragua, and Salvador, since July 1, 1908 (under the provisions of the treaty of 1902), the rights which their respective copyright laws grant to their own citizens, but not to exceed the term of protection granted in the United States; and that since July 13, 1914, in Bolivia, the Dominican Republic, Ecuador, Guatemala, Honduras, Nicaragua, and Panama (under the provisions of the convention of 1910), American authors' rights of literary and artistic property are acknowledged and protected in conformity with the stipulations of that convention; and such authors enjoy in those countries signatory to the convention the rights that their respective laws accord; but the term of protection is not to exceed that granted in the United States. In order to secure protection there must appear in the author's work a statement that indicates the reservation of the property right. The convention expressly provides that "the acknowledgment of a copyright obtained in one State, in conformity with its laws, shall produce its effects of full right in all the other States without the necessity of complying with any other formality."

Authoritative information concerning copyright in the Latin-American countries is very meager. In most of the countries recent copyright legislation is lacking. I inclose a copy of my bibliography of "Foreign Copyright Laws" which included indications of the copyright legislation of the Latin-American States up to 1904. Only five countries have enacted copyright laws in the 10 years since that list was published, namely: The Argentine Republic (Sept. 23, 1910); Bolivia (Nov. 13, 1909); Brazil, an act in behalf of foreign authors (Jan. 17, 1912); Nicaragua (Civil Code of 1904); and Uruguay (Mar. 15, 1912). To undertake to remedy this state of affairs by proposals for new and uniform copyright legislation would doubtless prove a serious undertaking. Even if legislation could be secured, it is probable it would be of the character of the recent Brazil act in favor of foreign authors, effective only when they are citizens of nations that have subscribed to international copyright agreements, or have entered into separate copyright agreement with the country concerned.

## GENERAL ADHESION TO THE CONVENTION OF 1910.

It seems probable that greater real advancement might be looked for by securing adhesion to the Buenos Aires Copyright Convention of 1910 of such other South American States as have not, up to the present time, put this treaty into operation. All of these States signed the agreement in 1910, and if they were to ratify and proclaim it there would result a uniform agreement between 21 countries to acknowledge and protect the rights of literary and artistic property. Such an agreement put into force would imply an obligation to enact domestic legislation to see that its provisions are effective, if that should be found necessary.

So far as the Copyright Office has any information, no great interest is felt in the South American countries in regard to the establishment of copyrights relations with the United States. The copyright applications received from the Latin-American countries are negligible. Our detailed copyright legislation seems to them difficult, and its requirements (obligatory deposit of copies, registration and American manufacture of copies) burdensome and difficult to comply with. A liberal treaty relation (such as that established by the convention of 1910), guaranteeing copyright protection with a release from arbitrary formalities, is probably the most feasible proposal.

On the American side interest in the matter centers in those publishing houses in the United States which produce and print books in Spanish and Portuguese for distribution and sale in South America. They have a business interest of the most practical kind in securing protection for their literary property in the Spanish-American countries. So far as I have been able to secure any expression of opinion or suggestion from them they are practically in agreement in urging further effort to secure general adhesion to the copyright convention of 1910.

It may be of interest and value to refer more particularly to some representative expressions of opinion. Mr. Richard R. Bowker, who is the editor and publisher of "The Publishers' Weekly," the author of the leading work on our copyright law, and well informed on all copyright questions, writes:

I am strongly of the opinion that unless there are good reasons to the contrary it would be much better for the present conference to reaffirm that convention, already in operation between the United States and several of the smaller countries, than to start de novo.

Mr. George Haven Putnam, the well-known publisher, and secretary of the American Publishers' Copyright Association, writes that the provisions of the convention of 1910 are in substantially satisfactory shape, and that if they could be put into force in the other and more important South American States "the requirements of American authors and publishers ought to be fairly met."

The American Book Co. is one of our largest publishers of school and college textbooks, and has a vital business interest in any proposals looking toward better copyright relations with our southern neighbors. In answer to the question, What is most desirable and what should be the next step in bringing about satisfactory copyright conditions in the Latin-American countries, the answer was as follows:

After deliberating amongst ourselves and conferring with our attorneys we have arrived at the following conclusions: (1) That the provisions of the convention at Buenos Aires, 1910, are sufficient for the protection of American books; and (2) that the most feasible and advantageous next step is to urge at the coming Pan American Conference the ratification of the provisions of the 1910 convention by all the Latin American nations which have not yet ratified it.

The reason for these conclusions are so well put that I venture to quote them at length:

To the provisions of the convention of Buenos Aires there can be but minor objections, since it falls in line with the Berne and Berlin conventions which in turn represent the consensus of the best opinions on international copyright protection. This granted, the next practical and obvious step would be to make the provisions of the 1910 convention operative through a general ratification. Obviously it would be easier to obtain ratification of a convention to which eight nations are already signatory

than to frame and secure ratification of a wholly new convention. Such defects as may appear or develop in the 1910 convention had better be corrected subsequently than to undo the work already so well begun. Were a new convention called, its later ratification by the countries represented would likely be subject to a delay similar to that to which the present one has undergone. It therefore appeals strongly to us that the wise course to pursue is to urge a general acceptance of the provisions of the Buenos Aires convention.

Other publishers, however, while expressing approval of the provisions of the convention of 1910, indicate their belief that enactment by the Latin American countries of suitable domestic legislation may be necessary to insure that full effect shall be given to the treaty stipulations, and they ask if this could not be suggested in a general way, without attempting to indicate explicitly the domestic legislation these countries ought to enact. This would, no doubt, be a matter for the determination of the American delegates to the conference.

It would seem, therefore, that so far as copyright is concerned the General Committee on Uniformity of Laws Relating to Trade and Commerce might most advantageously propose that each of the remaining Latin American countries be urged to proclaim and put into effect the Copyright Convention of 1910, already signed by those countries.

#### REPRODUCTION OF MUSIC BY MECHANICAL MUSICAL CONTRIVANCES.

By section 1 (e) of the copyright act of March 4, 1909, the copyright proprietor of a musical composition was granted (from July 1, 1909) the exclusive right—

to make any arrangement or setting of it or of the melody of it in any system of notation, or any form of record in which the thought of an author may be recorded and from which it may be read or reproduced: *Provided*, That the provisions of this act, so far as they secure copyright controlling the parts of instruments serving to reproduce mechanically the musical work, shall include only compositions published and copyrighted after this act goes into effect, and shall not include the works of a foreign author or composer unless the foreign State or nation of which such author or composer is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States *similar rights*.

Of the Latin American countries only Cuba has petitioned for and secured the special rights granted by section 1 (e), by presidential proclamation dated November 27, 1911.

If it seems desirable to attempt to secure this reciprocal protection for music between the United States and the other Latin American countries, the matter could probably best be discussed in relation to the text of a special convention providing for the reciprocal protection of music against unauthorized reproduction by mechanical musical contrivances.

#### COPYRIGHT PROCLAMATIONS.

The following proclamations have been issued by the President, by which copyright protection is granted in the United States to works of authors who are citizens or subjects of the countries named. It is to be noted that this protection does not include "copyright controlling the parts of instruments serving to reproduce mechanically the musical work" secured by section 1 (e) of the act of March 4, 1909, except in the case of the countries named below, viz:

Belgium, Cuba, Germany, Hungary, Luxemburg, Norway, and Great Britain.



- July 1, 1891: Belgium, France, Great Britain and the British possessions, and Switzerland. (Stat. L., vol. 27, pp. 981-982.)  
 April 15, 1892: Germany. (Stat. L., vol. 27, pp. 1021-1022.)  
 October 31, 1892: Italy. (Stat. L., vol. 27, p. 1043.)  
 May 8, 1893: Denmark. (Stat. L., vol. 28, p. 1219.)  
 July 20, 1893: Portugal. (Stat. L., vol. 28, p. 1222.)  
 July 10, 1895: Spain. (Stat. L., vol. 29, p. 871.)  
 February 27, 1896: Mexico. (Stat. L., vol. 29, p. 877.)  
 May 25, 1896: Chile. (Stat. L., vol. 29, p. 880.)  
 October 19, 1899: Costa Rica. (Stat. L., vol. 31, pp. 1955-1956.)  
 November 20, 1899: Netherlands and possessions. (Stat. L., vol. 31, p. 1961.)  
 November 17, 1903: Cuba. (Stat. L., vol. 33, pt. 2, p. 2324.)  
 January 13, 1904: China. (Treaty of Oct. 8, 1903, Article XI.) (Stat. L., vol. 33, pt. 2, pp. 2208, 2213, 2214.)  
 July 1, 1905: Norway. (Stat. L., vol. 34, pt. 3, pp. 3111-3112.)  
 May 17, 1906, and August 11, 1908: Japan. (Treaty of Nov. 10, 1905.) (Stat. L., vol. 34, pt. 3, pp. 2890-2891.)  
 September 20, 1907: Austria. (Stat. L., vol. 35, pt. 2, p. 2155.)  
 April 9, 1910: Austria, Belgium, Chile, Costa Rica, Cuba, Denmark, France, Germany, Great Britain and her possessions, Italy, Mexico, the Netherlands and her possessions, Norway, Portugal, Spain, and Switzerland. (Stat. L., vol. 36, pt. 2, pp. 2685-2686.)  
 June 29, 1910: Luxemburg. (Stat. L., vol. 36, pt. 2, p. 2716.)  
 May 26, 1911: Sweden. (Effective June 1, 1911.) (Stat. L., vol. 37, pt. 2, pp. 1682-1683.)  
 October 4, 1912: Tunis. (Stat. L., vol. 37, pt. 2, p. 1765.)  
 October 15, 1912: Hungary. (Copyright convention between the United States and Hungary, effective Oct. 16, 1912, including protection under section 1 (e).) (Stat. L., vol. 37, pt. 2, pp. 1631-1633.)

PROCLAMATIONS UNDER SECTION 1 (E), OF THE COPYRIGHT ACT.

- December 8, 1910: Germany. (Stat. L., vol. 36, pt. 2, pp. 2761-2762.)  
 June 14, 1911: Belgium, Luxemburg, and Norway. (Stat. L., vol. 37, pt. 2, pp. 1687-1690.)  
 November 27, 1911: Cuba. (Stat. L., vol. 37, pt. 2, pp. 1721-1722.)  
 October 15, 1912: Hungary. (See above.)  
 January 1, 1915: Great Britain, her colonies and possessions (but not including Canada, Newfoundland, Australia, New Zealand, or South Africa.)

(j) Report of Wilbur J. Carr and General Enoch H. Crowder on Uniformity of Customs Regulations, Consular Documents and Port Charges.

CUSTOMS REGULATIONS.

It is not intended in the following to discuss all of the customs regulations of the countries of North and South America, but merely those customs requirements which affect the exporter in placing his shipments in condition for expeditious entry through the custom-house at the port of entry in the country of destination. Discussion of local customs regulations would involve the question of tariff

legislation and customs administration, which differ so greatly in the various countries as to make any attempt at uniformity futile.

In brief, it may be said that the principal customs regulations of foreign countries which directly concern the exporter are those relating to manifests, bills of lading, and consular invoices and certificates of origin. It is true that there are many other regulations in regard to health certificates, certificates of disinfection, labeling, adulteration, and other requirements, but as a rule these regulations relate to specific classes of merchandise and differ according to the particular countries, and of necessity are modified from time to time as conditions change. Consequently, no good purpose would seem to be served by including them in any discussion of the feasibility of uniform regulations for all countries.

#### MANIFESTS.

First among the regulations in regard to which it is believed the Governments concerned might adopt a uniform rule are those in relation to manifests. Inquiry into this subject shows that there is considerable difference in the requirements of the various countries of North and South America in regard to this subject. The production of a carrier's manifest in some form is required by all of the following countries: Argentine Republic; Brazil, Cuba, Guatemala, Haiti, Panama, Peru, Salvador, United States, Uruguay. The United States, Cuba, and Uruguay require merely a general entry manifest. The Argentine Republic, Haiti, Panama, Brazil, Guatemala, Peru, and Salvador require that the manifest should be certified by the consul at the port of departure.

Bolivia, Chile, Paraguay, and Venezuela find manifests unnecessary.

Within the short time this report has been in preparation there has been no opportunity to obtain accurate information in relation to the requirements of Colombia, Costa Rica, the Dominican Republic, Honduras, Ecuador, Mexico, and Nicaragua.

The manifest ordinarily employed in the ocean carrying trade is a classified summary of the bills of lading of individual shipments making up the cargo and is prepared by the appropriate officer of the vessel. It has no real value in the entry of merchandise or in the assessment of tariff duty. Each separate shipment listed upon the manifest is accompanied by a bill of lading (or in case of small packages by a parcel receipt) or consular invoice or both, which documents are utilized in, and are necessary to, the entry of the shipments through the customhouse. The consular invoice and, in the case of shipments to some countries, the bill of lading also, is duly certified by the consul at the place of origin or the port of shipment. Therefore, there would seem to be no sound reason for requiring consular certification of manifests, and the discontinuance of the requirement wherever it exists would be in the interest of facilitating trade by reducing unnecessary formality and expense.

This subject was fully considered at the Fourth International Conference of American States held at Buenos Aires in 1910, and the conclusion was reached that as the ship's general manifest was substantially a consolidation of bills of lading and had no utility in the

entry of imported goods consular certification of the document should be dispensed with. The conference therefore resolved—

(1) To recommend that the countries that require a general entry manifest shall not require any consular certification of such manifest.

It is also desirable that the form of the manifest in use should be uniform not only because transportation companies would find uniformity advantageous but also because as shipping manifests are largely required for statistical purposes the cause of uniformity of import and export statistics would be greatly aided.

After investigation the conference at Buenos Aires found that there was sufficient similarity in the requirements of the various Governments to make uniformity of manifests both feasible and desirable. The conference accordingly drafted a form, which appears to satisfy the principal requirements of all the Governments, and by resolution recommended that it be adopted by all the countries represented at the conference.

It would appear that the form of manifest recommended by the conference should meet all the requirements of the various American Governments as well as those of commerce, and by reason of having already been considered and recommended by representatives of those Governments in formal conference it would be presumed to be more readily acceptable than an entirely new form. Therefore it is recommended that—

(1) The Governments of North and South America be urged to adopt the form of manifest approved by the Fourth International Congress of American States.

(2) Consular certification of ship's manifest be dispensed with.

#### CONSULAR INVOICES AND CERTIFICATES.

The requirements of the various Governments of North and South America in respect to consular invoices have been very fully and clearly set forth in a document recently issued by the Department of Commerce (Tariff Series No. 24, Consular Regulations of Foreign Countries). That document contains in detail the regulations of the various Governments in regard to invoices, certificates of origin, and consular fees. (See S. Doc. 744, 61st Cong., 3d sess., p. 268.)

Eighteen out of twenty-one American States require consular invoices, namely: Bolivia, Brazil, Chile, Colombia, Cuba, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, Venezuela, United States.

The Argentine Republic requires certificates of origin in lieu of consular invoices, which are, however, documents only slightly different from consular invoices. The Government of Costa Rica does not require consular invoices but the exporter is required to prepare a special form of invoice covering his consignment and forward it to the consignee in Costa Rica, where it is duly certified at the port of entry. The Government of Uruguay probably has the simplest of all systems. It requires no consular invoice, but merely that the bill of lading shall be presented to the Uruguayan consul at the port of departure for stamping and the retention of one copy for his official use.

*Forms of invoices.*—The mere fact that some countries require invoices to accompany importations and others do not is not so important as the fact that the forms of invoices for the various countries are

so different. Some countries require data which others do not. Each for the most part has its own particular requirement in regard to the arrangement of data and there is a general lack of standardization of information required. Each country likewise has its own form of consular certificate to be attached to the invoice. All of these variations become of great importance to the exporter and to the importer in commerce with Latin-American countries because, unlike the condition in the United States, inaccurate invoice description of merchandise is under the laws of many of those countries an offense for which severe penalties are imposed. The standardization of invoice entries and data for exports for Latin-American countries has, therefore, a peculiar importance in its relation to American manufacturers and exporters.

The subject of uniformity of requirements in regard to consular invoices was carefully considered at the Fourth International Conference of American States in 1910 and a resolution was adopted:

To recommend that the countries represented in the present conference adopt the form of consular invoice herewith appended. This form would have on the back only the headings under which the sellers or agents make their declarations, and those headings under which the consular certificate is made. The forms of certificates or declarations would be filled in under these headings according to the legal requirements of each country.

To recommend that the countries which adopt the form of invoice herewith submitted shall not require the "Certificate of Origin," the substance of which is contained in said form of invoice. (S. Doc. No. 744, 61st Cong., 3d sess., pp. 15 and 192.)

The form of invoice recommended by the conference is given in Senate Document 744, Sixty-first Congress, third session, page 268.

*Language of invoices.*—The requirements in regard to the language in which invoices are made out greatly differ. One country requires invoices to be made out in English and Spanish; 5 countries stipulate that invoices must be prepared in English or Spanish; 12 countries require invoices to be made out in Spanish; 1 in English or French; 1 in English or Portuguese; while the United States requires all invoices to be in English. While these requirements may not be inconvenient to the great manufacturing and exporting companies and to commission houses in the principal seaports, they greatly embarrass the smaller manufacturer or exporter in his efforts to carry on direct trade with the Latin-American countries and they must similarly embarrass many commercial houses in Latin-America exporting to or importing from the United States. It would seem to be a simple matter for the majority of the Governments concerned, including that of the United States, to print their consular invoices in both English and Spanish and thus make them intelligible to the business man in either country familiar with one or the other of the two languages. This would be necessary, however, only in relation to trade with the United States. Between the United States and Brazil the invoices would be printed in English and Portuguese, while those for trade between the United States and Haiti would be printed in English and French. Naturally only the Spanish language would be used in invoices for use in commerce between the Spanish speaking American countries.

*Number of copies.*—A great variation occurs in the requirements of the various Governments in regard to the number of copies of invoices that are required to be provided. While Paraguay finds only one to two copies necessary, Haiti and Nicaragua require six and Ecuador

seven copies. These different requirements are likewise confusing, especially to the small exporter, whose business does not warrant the expense of a foreign trade department capable of being at all times familiar with the requirements of the different Governments. It would seem entirely feasible for the American Governments to agree to require a fixed number of copies and thus facilitate the export business of the small or average exporter.

*Cost of invoice blanks.*—In the cost of invoice blanks there is also great lack of uniformity. Consular officers of the United States supply shippers with invoice blanks without charge. The cost of invoice blanks for the Latin-American countries ranges from 5 to 90 cents a set. Any standardization of invoice requirements should be accompanied by a fixed charge for invoice blanks unless it could be agreed that such blanks would be supplied by consular officers without expense to the shipper. The latter would be much the most desirable course to pursue.

*Fees for certifying invoices.*—It is in reference to the fees charged by the various Governments for consular certification of invoices that one of the greatest obstacles to standardization of requirements is encountered. An examination reveals five distinct methods of collecting fees for consular certification, namely:

1. The collection of a fixed fee for the service without regard to the value of the merchandise described in the invoice. This is the method adopted by the United States, Brazil, Argentina, Haiti, and Paraguay, although the amount of the fee varies with each country.

2. The collection of a fee which varies in fixed amounts according to the value of the shipment described in the invoice. This method is followed by Guatemala, Dominican Republic, and Mexico.

3. The collection of a fee which varies in fixed amounts according to the value of the shipment described in the invoice until a specified maximum is reached, after which the fee increases according to a fixed percentage of the value of the shipments above the specified maximum. Among the Governments employing this method are Ecuador and Salvador.

4. The collection of a fee at the rate of a fixed percentage of the value of the merchandise described in the invoice. Panama and Peru are among the Governments employing this method of collecting fees for consular certification of invoices.

5. The collection of a fee at a fixed percentage of the value of the merchandise, the rate of which percentage varies according to the class of the merchandise. The only Government which has adopted this method of collecting consular fees is Colombia.

The first of these methods of collecting fees for certification of invoices is simple and generally satisfactory in operation and not burdensome upon shippers. But the remaining four methods constitute in reality four separate ways of collecting an added *ad valorem* duty upon the merchandise for the benefit of the country of destination. The great variation between the consular charges for certification of invoices required by the various American States has already been shown, and a graphic illustration is the following table adapted from a statement appearing in "Consular Regulations of Foreign Countries. Tariff Series No. 24." published by the Department of Commerce.

*Summary statement of consular regulations.*

Countries.	Fees for shipments valued at—		
	\$100.	\$1,000.	\$10,000.
Argentina.....	\$2.00	\$2.00	\$2.00
Bolivia.....	3.00	20.00	200.00
Brazil.....	2.75	2.75	2.75
Chile.....	2.00	6.00	51.00
Colombia.....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
Cuba.....	3.00	3.80	12.80
Dominican Republic.....	2.00	3.00	11.00
Ecuador.....	3.00	30.00	300.00
Guatemala.....	10.00	16.00	28.00
Haiti.....	1.00	1.00	1.00
Honduras.....	3.00	10.00	32.50
Mexico.....	2.99	6.48	28.91
Nicaragua.....	4.50	12.00	34.50
Panama.....	2.00	12.00	93.00
Paraguay.....	2.00	2.00	2.00
Peru.....	1.00	10.00	100.00
Salvador.....	3.50	14.50	40.75
Uruguay.....	1.05	1.05	1.05
Venezuela.....	3.75	8.75	65.00

<sup>1</sup> Free to 6 per cent of invoice value, according to character of shipment.

From the foregoing it is obvious that the consular officers of a number of the Latin-American Governments collect from the exporter in the country of exportation not only the value of the services rendered by them as consuls but also an ad valorem duty upon all merchandise destined to the countries they represent. This is but an indirect mode of making the collection from the importer in the consul's home country, for the entire amount paid by the exporter for consular fees is specifically charged as such or added to the selling price of the merchandise listed in the invoice and is ultimately paid by the importer in the foreign country. Therefore, it would appear to make greatly for simplicity if fees for consular certification of invoices could be limited strictly to the value of those services and all charges in the nature of customs duty be collected at the port of entry.

The disinclination of many of the Governments to modify their methods of collecting consular fees and to adopt a uniform fee for certifying invoices was displayed during the discussions on the subject at the Fourth International Conference of American States. It was conceded by the representatives of those Governments exacting a consular fee in the nature of a tax on the merchandise imported that the existing charges were in many cases excessive, operated to restrict commerce, and ought to be reduced, but not below the point necessary for the maintenance of the Consular Service. They were generally of the opinion, however, that it was impracticable to replace that system with the so-called flat rate or fixed fee system such as that adopted by the United States, Brazil, Argentina, and Haiti. Therefore, the conference adopted the following resolution:

Consular fees should be moderate and should not constitute an indirect method of increasing customs duties. It is believed that it is for the best interest of the international commerce of this continent that these fees, no matter what method is employed for their collection, be limited as far as possible to the amounts necessary to cover the cost of maintaining the Consular Service. (S. Doc. No. 744, 61st Cong. 3d sess., pp. 15 and 192.)

*Shipments covered by one invoice.*—There is also a lack of uniformity in the number of shipments that may be embraced in one invoice. The United States requires a separate invoice for each shipment from one consignor to one consignee. The Governments of Argentina, Bolivia, Brazil, Costa Rica, Mexico, Peru, Salvador, and Venezuela have a similar requirement. Other governments, however, require a separate invoice for each mark. A considerable burden would be lifted from the exporter if all the Governments could be induced to adopt the rule that each shipment from one consignor to one consignee should require a separate invoice.

#### FEASIBILITY OF ABOLISHMENT OF CONSULAR INVOICES.

Consideration of the foregoing differences in invoices and their effect upon commerce suggests the inquiry in regard to whether consular invoices are actually necessary in the commerce of to-day. There has grown up lately in the United States, and it is presumed also in the Latin-American countries, a sentiment in favor of abolishing the consular invoice as an unnecessary hindrance to commerce. There is much to be said in support of a proposal to do away with the consular invoice and to substitute in place of it either (a) consular certification of the bill of lading at the port of shipment or (b) a statement to be produced by the importer at the port of entry in the foreign country to which the merchandise is destined. Either of these courses would be far more convenient to the shipper, would dispense with the necessity of maintaining a large number of consuls to give attention to the certification of invoices, and thus be more economical to the Governments concerned as well as to the shippers. But this raises a question of policy of doubtful acceptability to the various American Governments.

The consular invoice is peculiarly American. The European and Eastern Governments as a rule do not require it. The principal reasons for its existence are—

- (1) To facilitate the compilation of accurate statistics.
- (2) To classify and value goods for customs purposes and aid in the prevention of false entries where duty is assessed upon the value of the merchandise.
- (3) To raise revenue through the collection of a fee for the certification of the invoice by the consul.

The United States was one of the first Governments to require consular invoices, and its laws and regulations on the subject, the earliest having been adopted soon after the organization of the Government, are probably more extensive than those of any other Government. As a rule each new tariff law enacted by Congress contains additional requirements, and thus strengthens the system. A large number of consulates are maintained almost solely for the convenience of shippers in obtaining consular certificates to invoices and to safeguard the customs revenue by a closer surveillance of shipments, and the reason for this is that nearly one-half of the public revenue of the United States is derived from the collection of duties upon imports, and a large proportion of the rates of duty are based upon the foreign market value of the merchandise. Hence the value of the consular invoice and the certificate of the consul to the correctness of the values stated in the invoice as a means of preventing false

entries. The system has become so firmly established as an integral part of the tariff system that it is doubtful whether Congress could be persuaded to abolish it, even if the Executive branch of the Government should so recommend. Furthermore, and as another reason for retaining the system is the fact that the Government receives in fees for the consular certification of invoices more than \$1,700,000 yearly, being within \$300,000 of the total annual cost of the entire Consular Service.

Presumably reasons similar to the foregoing would deter the Latin-American Governments from agreeing to abolish the consular invoice, and the most that can be hoped for at present is an agreement for uniformity and a simplification of invoice requirements and formalities.

*Consular certificates to bills of lading.*—A number of the Latin-American Governments require that each bill of lading covering shipments to these countries shall be certified by the consuls at the port of shipment. With one exception all of these countries require consular invoices or their equivalent, and six of them also require the ship's manifests to be certified by the consul. It has already been pointed out that the consular certificate to the manifest serves no useful purpose, and no real utility can be seen in the consular certificate to the bill of lading where the shipment is accompanied by a duly certified consular invoice. This was also the opinion of the Fourth International Conference of American States at Buenos Aires, which adopted the following resolution:

To recommend that those countries which adopt the annexed form of consular invoice shall not require a consular certification of the bills of lading. (S. Doc. No. 744, 61st Cong. 3d sess., pp. 15 and 192).

#### PORT CHARGES.

An examination has been made into the feasibility of undertaking to bring about uniformity of such port charges as pilotage, towing, docking, lighterage, and warehousing, and also of port facilities. It requires little consideration to determine that the subject presents vastly more difficult problems than any of those subjects heretofore discussed. First of all, every port is different from every other port. The service which a pilot renders in one port may necessarily be much greater than that rendered in another port. The value of his services in one country or port may be greater or less than in another country or port, depending upon distance, local price of labor, and other considerations. Likewise the cost of towing, docking, and lighterage differs according to the character of the port, the local cost of labor, and the local regulation, administration, and financing of port facilities. Moreover, port charges and facilities are not always regulated by the national government but more often by municipal or State governments or by the division of authority between the national and the State or municipal government, or both. In view of these considerations and the difficulty that has so far been encountered in bringing about uniformity of regulation and practice in matters controlled solely by the national governments, it would seem that any effort in the direction of uniformity of port charges would be likely to prove futile. Consequently, it is recommended that the subject of uniformity of port charges be given no further consideration at the present time.



## SUMMARY OF CONCLUSIONS.

The conclusions reached as a result of the foregoing consideration of the subject of the desirability of uniform customs and consular regulations and certificates and port charges are, briefly, the following:

1. That the Governments of North and South America be urged to adopt the form of manifest approved by the Fourth International Congress of American States. (See S. Doc. 744, 61st Cong., 3d sess., p. 267.)

2. That consular certification of the manifest be dispensed with.

3. That the Governments be urged to adopt the form of invoice recommended by the Fourth International Conference of American States, together with a certificate thereon, in which shall be consolidated the material requirements of the various Governments. (See S. Doc. 744, 61st Cong., 3d sess., p. 268.)

4. That the Governments be urged to discontinue the use of a certificate of origin.

5. That the invoice form be printed in both the language of the country of exportation and the language of the country of importation.

6. That the Governments be urged to require only four copies of each invoice, but that provision be made by which a shipper may obtain additional copies of the invoice upon the payment of a reduced fee for each additional copy.

7. That invoice blanks be supplied by consular officers free of charge, but that shippers be permitted to print their own blanks, provided they adhere strictly to the form prescribed by the Government concerned.

8. That the Governments be urged to adopt a fixed fee for the certification of invoices, but in the event that it should prove impracticable to reach an agreement upon a fixed fee applicable to all countries the Governments then be urged to adopt the principle of charging a moderate fee designed to compensate the consul for his services and not to constitute an indirect method of increasing customs duties.

9. That the Governments be urged to adopt a rule permitting one consular invoice to cover an entire shipment from one consignor to one consignee regardless of the number of separate marks embraced in the shipment.

10. That the Governments be urged to abolish the consular certification of bills of lading.

11. That consideration of the subject of uniformity of port charges be suspended for the present.

(k) Report of Dr. Frank R. Rutter on Classification of Merchandise.

The desirability of closer uniformity in the practice of various countries, both in customs classification and statistical classification, can not be questioned.

Uniformity of classification among American countries was advocated by the Second International Conference of American States at the City of Mexico in January, 1902, and, pursuant to the resolutions there adopted, a Customs Congress of American Republics was held at New York in January, 1903, to consider this question, among others affecting customs regulations. Since that time the demand for this reform has been steadily growing stronger.

Still earlier, as far back as 1869, the International Statistical Congress advocated uniform classification. The International Customs Conference, held in Paris in 1900, went carefully into the subject and recommended that the various countries unite on a common statistical classification to cover only the most important articles, which would serve as a basis for international statistics in addition to the ordinary statistics published by each country, according to its own classification. The International Statistical Conference of 1910, at Brussels, drew up a tentative classification for this purpose, which was referred to the various Governments represented for further consideration. With few amendments this classification was adopted by the International Statistical Conference of 1913 at Brussels and incorporated in a convention instituting the International Bureau of Commercial Statistics and providing for the annual publication by that bureau of the imports and exports of each of the contracting countries.

The first step had accordingly been taken toward statistical uniformity when the European war broke out. Thirteen American countries were parties to this agreement—namely, Bolivia, Chile, Colombia, Cuba, the Dominion Republic, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Paraguay, Peru, and Uruguay. Seven others stated, in reply to the invitation to send representatives to the conference, that they approved the movement in principle and would carefully consider adhering to the convention. These countries were Argentina, Canada, Costa Rica, Ecuador, Salvador, the United States, and Venezuela.

Assuming the desirability of greater uniformity both in statistical classification and in customs classification, the practical question arises, Which reform should be more strongly urged at the present time? It is believed that greater practical results will come from concentrated effort toward obtaining uniformity in statistical classification. For several reasons the difficulties encountered will be materially less than would be met in attempting at the start a standardization in customs classification: (1) Statistical methods can be altered by administrative action without change of law; (2) a uniform classification may be adopted as a supplemental system without affecting the regular statistics published by each country; (3) the schedule adopted by the International Statistical Conference at Brussels may serve as a basis for agreement.

1. *Statistical methods can be altered by administrative action without change of law.*—In all countries administrative officers realize more fully than does the lawmaking body the importance of concerted international action. It is accordingly much easier to bring about a change in statistical methods than in tariff classification, which is fixed by law.

2. *A uniform classification may be adopted as a supplemental system without affecting the regular statistics published by each country.*—So far Bolivia is the only country which has adopted the international classification for its national statistics. Most countries would find this course out of the question because of the need for fuller details and the necessity of following more closely their own tariff classification. While it is entirely practicable to introduce in commercial statistics a separate record according to the international classification, by the further subdivision when necessary of the ordinary schedule, it would be impossible to apply a double system of

customs classification. Uniformity in tariff classification can be obtained only when such country is prepared to discard its previous system.

3. *The schedule adopted by the International Statistical Conference at Brussels may serve as a basis for agreement.*—Thirteen American countries were parties to that conference and have thus given their approval to the classification then adopted. One advantage of using the Brussels schedule as a basis is that it would be a complete answer to any criticism that the United States is forcing its desires upon other American countries. Both in the matter of statistical uniformity and tariff uniformity the United States probably has more to gain than any other single country on this continent. Its interest in inter-American trade is chiefly in the exportation of manufactured goods, and it is in these articles that competition is keenest. Foodstuffs and raw materials are always in demand, and consequently agricultural countries are less in need of full statistical records than are industrial countries. On raw materials, moreover, import duties are generally lower than on manufactured goods, and the classification of the former for customs purposes is simpler and more readily ascertained. Disputes in regard to customs classification apply almost exclusively to manufactured goods, especially new articles when first entering foreign trade. Since the United States was not represented at the statistical conference of 1913, its adherence to the classification there adopted may be viewed as an acceptance of the conclusions reached by 13 other American States.

While utilizing the Brussels classification the American countries may agree with each other to subdivide such classes as they may desire so as to show separately in all American returns the products in which each is particularly interested.

The 1913 convention provided expressly that each adhering Government might report details not called for in the classification proper which would be presented in the publications of the bureau in the form of footnotes.

The returns to the international bureau call only for the total amount of each of the 186 classes of articles imported or exported by each of the adhering countries. In the original draft the reporting country was required to show, in addition, the countries to which the various articles were exported and the countries from which the same articles were imported. Information as to the amount of import or export duty collected on each of the 186 classes was also called for. These requirements were given up in the final measure to meet objections urged by some of the European countries represented, on the ground that the system was too complicated and called for an excessive amount of labor in the preparation of the returns. If desired, the American countries might agree to furnish for their own use such supplemental data. It would probably be well, however, to make this provision optional, so as to insure from each country at least prompt returns of each article imported or exported.

There is always danger that an international movement will accomplish little because it attempts too much. To guard against that danger the adoption of the Brussels statistical classification is urged as the most practical scheme now before the Pan American Governments.

The Brussels classification, embracing in all only 186 items, is necessarily general in character. While fairly adequate in regard to raw materials, important details are lacking in the case of manufactured goods. For the various textile manufactures only yarn and fabrics are distinguished. Machinery has only eight subdivisions. Other manufactures of iron and steel are combined in a single item. Manufactures of india rubber are all united. Without doubt the need for an elaboration of the schedule will appear after it has been put in force.

Viewed, however, merely as a first step toward uniformity, the adoption of the Brussels classification offers distinct advantages both as a means of improving commercial statistics and as tending to bring about closer conformity in customs matters. Each of these points calls for separate treatment.

That the statistics of foreign trade of different countries are far from being comparable is generally recognized, but few realize the extent to which such incomparability exists. Of the various causes responsible for this condition, differences in classification account for the most serious apparent discrepancies.

*Differences in classification.*—The primary basis of classification is sometimes found in the origin of the product or its degree of manufacture, as in France; sometimes, as in most South American countries, the raw materials and their various manufactured forms are grouped together in great classes, such as "textiles"; sometimes, as in Germany, both these divisions are made; sometimes the articles are arranged in alphabetical order. The component material determines the classification of articles in some tariffs, while in others regard is had to the use of the article.<sup>1</sup> Commercial statistics follow the tariff in practically all countries and follow it slavishly where commercial interests are not sufficiently organized to demand additional details. Statistical classification is so intricate and so varied that international comparisons are often impossible and always liable to error.

A most striking illustration of apparent discrepancy in statistics due to differences in classification is found in the shipments of pumps from the United States to Cuba. In the fiscal year ending June 30, 1914, the American returns recorded a value of \$291,350 for "pumps and pumping machinery" destined to Cuba; while the Cuban returns show imports from the United States of pumps worth only \$19,631. A careful examination of the Cuban tariff and customs decisions brings out clearly the reason for the apparent discrepancy between the two sets of statistics. The item described as "pumps" in the Cuban statistics doubtless refers to the phrase "steam pumps" in tariff No. 218. But even these, if intended for use on farms or in sugar factories, are admitted at greatly reduced rates of duty under the head of "Agricultural machinery and implements" (No. 216) or "Machinery and implements for sugar plantations" (No. 215). The vast majority of the pumps imported are undoubtedly declared for customs purposes under one of these two classes and appear under the corresponding item in the statistics. Pumps other than steam pumps not intended for use on farms or

<sup>1</sup> Some variations in the classification of typewriter ribbons are pointed out in *Foreign Import Duties on Office Appliances* (Bureau of Foreign and Domestic Commerce, Tariff Series No. 29), p. 10.

plantations are classified for duty purposes and undoubtedly for statistical purposes under tariff No. 226, "Machinery and apparatus not specified."

This instance should not be construed as reflecting in any manner on the accuracy of the Cuban returns. Without doubt numerous cases could be found in the statistics of the United States where, owing to differences in classification, some articles would appear to be understated in comparison with the returns of other American countries. The illustration from the Cuban statistics has been cited merely to emphasize the need of greater uniformity in classification, if general readers are not to be misled.

The adoption of a uniform classification would do much to make the statistics of different countries more comparable. Still other means to this end would be found in international agreement upon the definition of "imports" and "exports," upon methods of determining weight and value, and upon the definition of "country of origin" and "country of destination." These points can well be left to the future, after united action in respect to classification has proved its success.

*Varying definition of "imports" and "exports."*—The American statistical system is based on the British system. Exports are divided into two classes, according as they represent domestic products or products of foreign countries. Imports represent all goods landed, whether for immediate consumption or for warehouse; only goods for immediate transshipment or for direct transit through the country are excluded. In most continental countries, on the other hand, both imports and exports are divided into "special commerce" and "general commerce." General commerce includes all goods landed and all goods shipped, usually with the exception of the direct transit and transshipment trade, although in some countries these likewise are included. Special commerce represents goods imported for consumption within the country itself and exports produced within the country. Imports of raw materials for reexportation in manufactured form are in some countries included and in some countries excluded, and similarly the articles so manufactured and reexported are included by some countries and excluded by others.

These differences of definition account for some of the apparent inconsistencies in international statistics. As a rule, however, the discrepancy is not nearly so great as results from some of the other causes cited.

*Different method of determining weight and value.*—While in general the weight shown statistically is intended to represent net weight, there are numerous exceptions to this rule. In the case of value, the resultant discrepancies in commercial statistics are much more apparent. In the majority of countries the effort is made to show the value of exports when they leave the country and the value of imports when they reach the customs frontier, inclusive of freight and insurance, but exclusive of import duty. The United States is an exception since, in the case of imports, the foreign value (f. o. b. port of lading) instead of the value on arrival (c. i. f.) is prescribed by law. Freight charges are not, as a rule, sufficient to cause a marked discrepancy, but the exclusion of certain nondutiable charges, such as export duties in the country of origin, make our statistics of,

say, imports of Brazilian rubber, incomparable in point of value with the British statistics of imports of the same commodity.

The method of determining the value in the United States, the United Kingdom, and British colonies is by the declaration of the exporter or importer supplemented in the case of imports by the invoice. In most of the continental countries, on the contrary, the importer or exporter is required to declare only the quantity of his shipment, while the value is calculated according to a list of average prices fixed annually by a board of experts. This latter system is a gradual development from the old system of official values, when *ad valorem* duties were imposed according to the legal value, which remained unchanged for a long period. That method of assessing duties is still in force in some of the South American countries where, as a consequence, the unit value shown in the import statistics is constant as long as the valuation tariff remains in force.

*Inaccurate declaration of country.*—The exports of raw cotton from the United States to Germany in the calendar year 1913, according to our own returns, amounted to 2,658,640 bales of 500 pounds each, while the German returns for the same year showed an importation from the United States of only 1,628,828 bales. On the other hand, according to our returns, 117,662 bales of 500 pounds each were shipped to Russia, while the Russian returns show 342,326 bales imported from the United States. In the case of Germany we exported a million bales more than the German returns record, while Russia credits this country with more than twice the amount that our statistics show. The large transshipment trade through the free port of Hamburg and other German ports explains the first of these discrepancies. Shipments declared for Hamburg, without indication of any further destination, are of necessity recorded in our returns as exported to Germany, while in the German returns only the cotton entered for consumption is recorded. In the case of Russia, the reason for the discrepancy is much the same. Our commercial relations with that country are largely indirect, and as a result large quantities of American cotton for Russian consumption are shipped through other European ports, largely for account of firms located in such ports. Such shipments have to be recorded in our returns as exported to the countries in which the transshipment ports are located. If in the Russian returns all the cotton imported could be traced back to its country of origin, the discrepancy would undoubtedly be much larger.

As a general rule, import statistics are more trustworthy than export statistics. In the case of exports, the ultimate destination of the goods is frequently unknown; while in the case of imports the country of origin, although sometimes difficult to trace, can usually be ascertained if a sufficient effort is made.

Without question uniform customs practice and uniform tariff classification are of far greater practical importance than any improvement in statistical methods. In 1911, before the Pan American Commercial Conference, I advocated a simplification of tariff systems and a uniform customs classification for all American countries (proceedings, p. 208). It is unlikely, however, that any such plan can at once be introduced. Every nation is intensely jealous of its tariff independence. The ideal of a uniform customs classification can most surely be realized, I believe, indirectly, through a standardization of the statistical schedule.

Commercial statistics and the tariff are vitally related. An instance has been cited where their relation caused a serious statistical discrepancy. A marked improvement in statistical classification should, on the other hand, react favorably on the tariff classification. Statistical returns are collected in the regular course of customs procedure by customs officers who must be familiar with the statistical schedule. When the returns are published so as to facilitate international comparisons, the customs practice of different countries will be more easily learned. The tendency toward uniformity in tariff classification will be promoted if the international returns show the duties collected on each article as well as the values and quantities of imports and exports. Excessive duties on any article, compared with those levied by neighboring countries, will stand out, and strong arguments for their reduction may be drawn from such comparisons.

It is coming to be generally admitted that the tariff question has two aspects, one of policy and one of technique, and that the best results can be attained when the legislature confines its action to the fixing of rates, while leaving to administrative officials all matters of technical detail. Commercial statistics, when presented according to a uniform classification, and the advice of experts in the customs service can scarcely fail to leave their impress, in the way of closer international uniformity, on the wording of any new tariff law adopted by one of the contracting States.

The consent of the various Governments to any projected reform is not enough. To be successfully and continuously applied the measure must be actually supported by the appropriate officials. Latin-American statisticians are generally progressive men, with a broad international point of view. They can be depended upon to carry out with intelligence and energy the uniform classification proposed and to work for its gradual extension, with the necessary subdivisions, to customs practice.

(1) Report of Surgeon General Rupert Blue on the Standardization of Sanitary Regulations on Imports.

SIR: In compliance with your letter of July 21, 1915, I have the honor to submit herein a report containing a tentative plan for the certification and treatment of freight from or via South American ports destined to United States ports.

While your letter does not indicate that any sanitary regulations, save those concerning imports, are required, I feel that it would be impracticable to suggest a set of regulations which would apply effectively to imports and be economical of administration which did not include certain necessary measures regarding the other phases of maritime quarantine. For example, any kind of cargo, even foodstuffs, coming from a port not infected with plague would be safe; but a good many people believe that because there are no human cases of plague in a port that said port is free of plague, notwithstanding the fact that the rats may have the disease and may enter a vessel either independently or along with the freight. Therefore any set of regulations governing freight inspection and certification, so far as it applies to plague, must, to be effective and economical, deal with the human element in the situation.

Freight from a cholera-infected port might be absolutely safe so far as transmitting the infection of cholera is concerned, but if the water delivered to the vessel was not pure, and if there was not a guaranty that none of the personnel of the vessel were cholera carriers the freight regulations would really be of no consequence. That is to say, the certification of freight must include the consideration of the rat and rat flea in plague; the body louse in the case of typhus fever; the mosquito in the case of yellow fever; and the cholera carrier (man) in the case of cholera.

Therefore, in preparing this report to you I propose to make it in a condensed form, paragraphed, and to touch not only on those factors which at first may appear to be outside the scope of freight inspection, but I shall also make suggestions as to the easiest way in which the most favorable conditions in the Pan American ports can be obtained in the manner most acceptable to everyone concerned. These suggestions are as follows:

TENTATIVE PLAN TO FACILITATE THE IMPORTATION AND EXPORTATION OF FREIGHT IN  
PAN AMERICAN TRAFFIC.

The object of the tentative plan is to facilitate the certification of freight in South American ports, when destined to United States ports, and vice versa, and to aid consular officers and medical officers of the various Governments concerned, when assigned to such duty, in deciding upon the treatment to be accorded to the various classes of freight.

1. *Pan American quarantine conference.*—A conference shall be held annually at some convenient point between representatives of the quarantine authorities of each country concerned, for the purpose of formulating and progressively carrying out the following expedients in each port tending to the economical handling of freight:

A. Reciprocal inspections of quarantine facilities, measures, and methods in the various Pan American ports.

B. Constant surveys of the rat population in the various ports, by means of organized rat collection and bacteriological examination.

C. Progressive rat-proof construction and remodeling of wharf property, warehouses, and other buildings.

D. Certification of freight by selection as to character, methods of packing, sanitary conditions of locality where stored prior to shipment.

TENTATIVE DETAILS OF PROPOSED FREIGHT CERTIFICATION.

*Certification of freight from localities infected or suspected of being infected with plague.*—1. In the case of vessels which have been rendered rat free by fumigation just prior to receiving cargo, the following cargo may be loaded without treatment:

a. Filled, rat-proof containers, such as kegs, barrels, cans, boxes, or cases.

b. Moist, or green dry, hides, if the containers are open to inspection to determine freedom from rats.

c. Upholstered furniture, general personal effects, secondhand articles, curios, feathers, mattresses, matting, wool and furs, crated bamboo ware, plants, bulbs and seeds, rope, cuttings, bones, tendons, bone meal, hides, horns, hoofs, hair or bristles, if it can be determined that the articles and their containers are rat free.



When it can not be determined whether certain articles are rat free three courses of action are open:

The first is to have the freight stored in rat-free warehouses or barges for 30 days prior to shipment.

The second is to recommend against the shipment of the freight and make a special report of the incident for the quarantine officer at the port of arrival.

The third is to fumigate the freight for the destruction of rats, so that it may be certified rat free.

2. In the case of vessels which have not been rendered rat free by fumigation just prior to receiving cargo, the following cargo may be loaded without treatment:

a. Filled rat-proof containers, such as kegs, barrels, boxes, or cases.

*Fumigation of cargo.*—The fumigation of cargo incapable of being injured by sulphur gas may be carried out by exposure for 12 hours to sulphur dioxide gas 4 per cent. Freight which would be injured by sulphur gas may be treated by hydrocyanic gas, one-half ounce cyanide of potassium to 100 cubic feet of space, for 1 hour.

*Cargo which can not be disinfected.*—Any cargo which is presumably infected and which can not be disinfected should not be shipped.

*Cargo to be prohibited shipment from plague-infected or plague-suspected ports.*—Fruits and vegetables, especially potatoes and onions, unless packed in tight boxes or containers, or else in crates protected by one-half-inch wire mesh, or unless fumigated just prior to loading by exposure to hydrocyanic gas for one hour.

*Miscellaneous freight not covered in the above classification.*—Human hair, if treated by immersion in kerosene oil may be passed; also human hair arranged in hanks and packed so that it will not harbor rats or rat fleas, and provided also it does not show the presence of nits. Hair other than human, bristles, and feathers should be immersed in kerosene oil if originating in infected or suspected localities. Soiled wearing apparel should be boiled or steamed in an air-tight, jacketed compartment.

*Freight from cholera-infected ports.*—Certification of freight with regard to cholera depends solely upon whether it consists of food-stuffs which may have become infected in the process of packing. In the event there is doubt as to whether such articles are liable to convey the infection of cholera they are not to be subjected to any process of fumigation, but are simply to be rejected and the facts reported to the quarantine officer at the port of arrival in the event shipment is made despite the rejection of the freight.

NOTE.—It may be said in general that unsalted meats, sausages, dressed poultry, fresh butter, fresh milk (unsterilized), fresh cheese, fresh fruits and vegetables, and the like should not be shipped from cholera-infected localities. The question of whether the water taken aboard a vessel at a cholera-infected port is free from infection is so important that no inspection of freight should be considered effective unless the character of the water supply of the ship is absolutely known to the quarantine authorities. It should also be said in this connection that no inspection of freight in a cholera-infected port should be considered effective unless it has been ascertained whether any of the passengers or crew were cholera carriers, and in the case of yellow fever whether mosquitoes were taken on board, or whether those on board were destroyed prior to departure, and in case of

typhus fever whether there had been recent exposure to this disease on the part of passengers or crew.

*Rags.*—Rags should be considered separately from old gunnies, bags, ropes, etc. The latter should be considered from the standpoint of their liability to harbor rats, and should be disinfected as follows:

1. By dry heat (100° C.) for one hour in a heated, jacketed chamber.
2. By boiling, with or without soda solution, then drying and packing in tight bales.

FORM OF CERTIFICATE TO BE USED IN CERTIFYING FREIGHT IN PAN AMERICAN MARITIME TRAFFIC.

*Certificate of disinfection or of noninfection.*

No. ....

Consulate.....,  
....., 191...

I, the undersigned.....of.....at.....do hereby certify that the goods, wares, merchandise, animals, or articles or commodities described in.....invoice No....., dated....., and issued by this consulate....., have been fumigated, disinfected, or otherwise treated, or exist in the condition specified below, therein meeting the requirements of the Pan American quarantine regulations, and other instructions as noted, to wit:

[Specimen or sample entries.]

22 bales (mark 1-22) moist hides; inspected; rat free.

6 cases of human hair (mark J. D. S. 1-6) immersed in kerosene oil.

400 bags bonemeal (mark P. M. S. 1-400). Stored 60 days in premises free from plague infection.

In witness whereof I hereunto set my hand and seal of the consulate ..... of ..... at ..... this ..... day of ..... , 191...

[SEAL.]

Fee, \$.....

Consul.....

PRECAUTIONS TO BE OBSERVED ON BOARD VESSELS WHILE IN PORT.

*General precautions.*

1. Burn up all rubbish, including old ropes, unused timber, cans, paint buckets, etc.

2. Provide canvas coverings for all hatches and ventilators, so that the vessel can easily be made air-tight for fumigation when necessary.

3. Keep all doors and ports in good repair, so that they can be easily placed and made air-tight.

4. Place half-inch wire-mesh plugs in all open spaces, such as the intervals left between pipes and the sides of bulkhead openings through which pipes pass.

5. Protect ice boxes and provision lockers from rats by using half-inch wire mesh and raising the lockers from the decks, mounting them upon short legs.

6. Discard as much temporary sheathing in the hold as possible and see that the sheathing boards fit nicely and that all rat holes in the permanent sheathing are covered up by patches of half-inch wire mesh.

*Precautions to be observed in plague-infected or plague-suspected ports.*

1. If possible, load in stream by means of lighters which have been freed of rats.

2. Restrict as much as possible, or, better still, prohibit the shore liberty for crew.

If the vessel is lying at a dock:

1. Fend off at least 5 feet.

2. Use rat guards on lines day and night of a standard pattern, diameter 3 feet.

3. Gangplanks should be raised at night.

*Precautions to be observed in yellow-fever ports.*

1. If possible, anchor 200 meters or over from an inhabited shore.

2. Prohibit shore liberty to crew, and observe all precautions against mosquitoes: (a) Destruction by fumigation; (b) use of mosquito screens and nets.

*Precautions to be observed in cholera-infected or cholera-suspected ports.*

1. Boil all drinking water and place it while hot in covered vessels.

2. Eat only cooked food and avoid all raw fruits and vegetables.

3. Protect food from flies and insects, destroying the latter if possible.

4. Wash hands prior to eating and drinking.

The tentative plan for freight certification has purposely been made concise, for the reason that if adopted it should be circularized in both the English and Spanish languages, and it is always desirable that regulations which are intended to reach shipping men as well as quarantine officers should be brief as possible.

The form of freight certificate suggested could be used as a Pan American blank form, as it is intended that this form shall be used with certain modifications which may be suggested as a result of the conference between the quarantine authorities of the various Pan American countries.

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A special report on the use of the Metric System in Export Trade was prepared for the United States section by Samuel W. Stratton, director of the Bureau of Standards, in response to a request made by the Secretary of the Treasury, on the basis of recommendations of the first Pan American Financial Conference. The report of Director Stratton has been published as a separate Senate Document, 64th Congress, 1st Session, No. 241.

## APPENDIX A.

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### DRAFT OF TREATY CONCERNING COMMERCIAL TRAVELERS.

The United States of America and -----, being desirous to foster the development of commerce between them and to increase the exchange of commodities by facilitating the work of traveling salesmen, have agreed to conclude a convention for that purpose and have to that end appointed as their plenipotentiaries -----, who, having communicated to each other their full powers, which were found to be in due form, have agreed upon the following articles:

#### ARTICLE I.

Manufacturers, merchants, and traders domiciled within the jurisdiction of one of the high contracting parties may operate as commercial travelers, either personally or by means of agents or employees, within the jurisdiction of the other high contracting party on obtaining from the latter, upon payment of a single fee, a license which shall be valid throughout its entire territorial jurisdiction.

#### ARTICLE II.

In order to secure the license above mentioned the applicant must obtain from the country of domicile of the manufacturers, merchants, and traders represented a certificate attesting his character as a commercial traveler. This certificate, which shall be issued by the authority to be designated in each country for the purpose, shall be viséed by the consul of the country in which the applicant proposes to operate, and the authorities of the latter shall, upon the presentation of such certificate, issue to the applicant the national license as provided in Article I.

#### ARTICLE III.

A commercial traveler may sell his samples without obtaining a special license as an importer.

#### ARTICLE IV.

Samples without commercial value shall be admitted to entry free of duty.

Samples marked, stamped, or defaced in such manner that they can not be put to other uses shall be considered as objects without commercial value.

#### ARTICLE V.

Samples having commercial value shall be provisionally admitted upon giving bond for the payment of lawful duties if they shall not have been withdrawn from the country within a period of six months.

Duties shall be paid on such portion of the samples as shall not have been so withdrawn.

## ARTICLE VI.

All customs formalities shall be simplified as much as possible with a view to avoid delay in the dispatch of samples.

## ARTICLE VII.

Peddlers and other salesmen who deal directly with the consumer but who have no established place of business in a given country shall not be considered as commercial travelers in that country but shall be subject to the license fees levied on business of the kind which they carry on.

## ARTICLE VIII.

No license shall be required of:

(a) Persons traveling only to study trade and its needs, even though they initiate commercial relations, provided they do not make sales of merchandise.

(b) Persons operating through local agencies which pay the license fee or other imposts to which their business is subject.

(c) Travelers who are exclusively buyers.

## ARTICLE IX.

Any concession affecting any of the provisions of the present treaty that may hereafter be granted by either high contracting party, either by law or by treaty or convention, shall immediately be extended to the other party.

## ARTICLE X.

This convention shall be ratified; and the ratifications shall be exchanged at ..... within two years, or sooner if possible.

In testimony whereof the respective plenipotentiaries have signed these articles and have thereunto affixed their seals.

Done in .... copies, at ....., this .... day of ....., 191....

[SEAL.]

[SEAL.]

[SEAL.]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMORANDUM ON PROPOSED TREATY GOVERNING COMMERCIAL TRAVELERS.

The purpose of this treaty is to facilitate the operations of commercial travelers and thus to foster trade. The treaty provides for the issue of a certificate attesting the traveler's character so far as concerns the exercise of his particular function.

The question of regulations for commercial travelers may be considered with reference, first, to the fees and rules imposed upon the travelers themselves, and, second, to the restrictions imposed upon the importation and sale of their samples. Few of the national governments in America levy taxes on commercial travelers, but

in many cases provinces and even municipalities assess taxes which range from a mere nominal fee to three or four hundred dollars.

It is understood that such taxes are intended not exclusively for revenue, but also in order to equalize the conditions of competition. For example, advertising matter carried by commercial travelers is generally taxed, with a view to protect the domestic printing industry. Local business houses wish to be protected at least to the extent of offsetting the occupational taxes which they are required to pay.

The objection to this system rests on sound economic theory familiar throughout the commercial world. It is clear that the removal of local restrictions and fees will encourage the presence and activity of the representatives of modern industry and will thus proportionately stimulate the importation and exportation of merchandise. An opportunity will be afforded to the merchant classes to increase their profits through the introduction and sale of new articles, while the customs duties levied thereon will accrue to the benefit of the entire community. The experience of leading commercial nations has shown that the best interests of a country are not served by taxation which strikes at a class merely because it is easily reached. Most nations have found it advantageous to take a national view of the operations of commercial travelers. So long as varying local burdens exist, salesmen will naturally seek only attractive opportunities, and as a result the provinces which most need to develop their commerce may receive the least attention. If taxes are to be imposed upon commercial travelers for reasons of fiscal necessity, let them be national, and let the National Government distribute the proceeds equitably among the several provinces.

As to the persons entitled to enjoy the benefits of the proposed treaty, the International High Commission unanimously agreed that peddlers and others selling directly to the consumer should be excluded since they enter into direct competition with local retail merchants. For a different reason, travelers who are exclusively buyers and travelers who are studying the means of improving trade do not come within the purview of the treaty, their work not being in any sense that of salesmen.

With reference to the samples of commercial travelers, the treaty proposes that "samples without commercial value shall be admitted to entry free of duty." A definition is included of what is conceived to be a sample having no commercial value, namely, one that has been marked or stamped or defaced in such a way as not to be capable of sale or of other normal use. Occasionally samples without value, the salability of which has previously been destroyed, have been subjected to the ordinary customs duties.

It is obvious that samples should not be sold without payment of customs duties within the jurisdiction of the country into which they are brought. The treaty accordingly provides that upon giving bond for the payment of such duties samples may be admitted free for six months, after which period any part not withdrawn becomes liable to taxation. The treaty does not require the traveler to remove his samples through the same port by which he entered the country, but this and various other details are not expressly dealt with, it being assumed that signatories to the treaty in their regulations will carry it into effect in that spirit of international comity and commercial liberality in which it has been conceived.

## APPENDIX B.

### DRAFT OF TREATY FOR THE ESTABLISHMENT OF AN INTERNATIONAL GOLD CLEARANCE FUND.

Whereas experience has shown that the payment of debts arising in the course of commercial and financial transactions is often impeded and rendered difficult by reason of circumstances which interfere with and temporarily render impracticable the safe transportation of gold from one country to another, in consequence of which trade is deranged, values are rendered uncertain, and widespread loss and suffering take place, the high contracting parties, being desirous to guard against such grave inconveniences, have decided to conclude a convention for that purpose, and to that end have appointed as their respective plenipotentiaries -----, who, after reciprocally exhibiting their full powers, which were found to be in due form, have agreed upon the following articles:

#### ARTICLE I.

With a view to stabilize exchange and facilitate the settlement of balances, the high contracting parties agree that all deposits of gold, made within the jurisdiction of any of them for the purpose of paying debts incurred in the jurisdiction of another, in the course of private commercial and financial transactions, shall be treated by their Governments as constituting an international fund, to be used for the sole purpose of effecting exchange.

To this end the high contracting parties agree never to appropriate any of the moneys included in such fund; and they furthermore engage, each within its own jurisdiction, to guarantee the fund, in any and all circumstances, in war as well as in peace, against seizure by any public authority as well as against impairment by or as the result of any political action or change whatsoever.

#### ARTICLE II.

The high contracting parties agree to act as trustees of the fund mentioned in the preceding article, and for this purpose each of them will designate a bank within its own jurisdiction to hold any part of the fund there existing as joint custodian with such person or persons or such institution as the high contracting parties may concur in appointing for that purpose.

Such joint custodians shall hold the moneys so intrusted to them, subject to the order of the creditors for whom it is held.

## ARTICLE III.

The details of the practical operations of the fund shall be regulated and determined by agreement between the designated depositary banks, and in order to simplify and facilitate such operations, the high contracting parties agree to take into consideration the reciprocal adoption of a uniform exchange standard, permitting the interchangeability of their gold coins, for which purpose they recommend the adoption of gold coins which shall be either a multiple or a simple fraction of a unit consisting of 0.33437 gram of gold 0.900 fine.

## ARTICLE IV.

This convention shall be ratified; and the ratifications shall be exchanged at ..... within two years, or sooner if possible.

In testimony whereof the respective plenipotentiaries have signed these articles and have thereunto affixed their seals.

Done in .... copies, at ....., this ..... day of ..... 19....

[SEAL.]

[SEAL.]

[SEAL.]

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